

P R O C E E D I N G S

DEPARTMENT OF LABOR AND INDUSTRIES
PUBLIC HEARING
ERGONOMICS

Labor and Industries Building
7273 Linderson Way
Tumwater, Washington

DATE: January 14, 2000
REPORTED BY: Laurel A. Terry, RPR
CSR NO.: TE-RR-YL-A435P9

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DEPARTMENT OF LABOR AND INDUSTRIES STAFF IN ATTENDANCE:

MR. TRACY SPENCER - Hearings Officer, Standards
Program Manager

GAIL HUGHES - Hearings Officer, Senior Program
Manager

MR. JOSH SWANSON - Administrative Regulations
Coordinator

MS. JENNIE HAYS - Safety & Health Specialist

MR. RICK GOGGINS - Ergonomist

MR. JOHN PEART - Industrial Hygienist

DR. MICHAEL SILVERSTEIN - Assistant Director for
Workplace Safety and Health

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1 TUMWATER, WASHINGTON; FRIDAY, JANUARY 14, 2000

2 2:00 P.M.

3 --oOo--

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5 THE ASSEMBLY OF THE PUBLIC HEARING, regarding ergonomics,

6 convened,

7 Mr. Tracy Spencer

8 and Ms. Gail Woods

9 presiding,

10

11 * * * * *

12

13 O P E N I N G C O M M E N T S

14 A N D P R E S E N T A T I O N:

15

16 MR. SPENCER: Good afternoon, ladies and

17 gentlemen. I now call this hearing to order.

18 This is a public hearing being sponsored by the

19 Department of Labor and Industries. I am Tracy Spencer,

20 the Standards Manager, and this is Gail Hughes, Senior

21 Program Manager in WISHA services. We are here

22 representing Gary Moore, the Director of the Department of

23 Labor and Industries as the hearings officers.

24 For the record, this hearing is being held on

25 January 14th, in Tumwater, Washington, beginning at

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1 2:00 p.m. as authorized by the Washington Industrial
2 Safety and Health Act and the Administrative Procedures
3 Act.

4 If you've not already done so, please fill out
5 the sign-in sheet located at the back of the room. This
6 sheet will be used to call forward individuals for
7 testimony and to ensure hearing participants are notified
8 of the hearing result.

9 For those of you who have written comments that
10 you'd like to submit, please give them to Josh Swanson or
11 Jennie Hays at the back table. We will accept written
12 comments until 5:00 p.m. on February 14th, 2000. Comments
13 may be mailed to the Department of Labor and Industries'
14 WISHA Services Division at Post Office Box 44620, Olympia,
15 Washington, 98504, e-mailed to ergorule@lni.wa.gov, or
16 faxed to area code (360) 902-5529. Those addresses and
17 phone numbers are in the information packets that you were
18 provided at the door.

19 The court reporter for this hearing is Laurel
20 Terry of Patrice Starkovich Reporting. Transcripts of the
21 proceedings should be requested, and are available from
22 the court reporter. Also, copies of the transcripts will
23 be available on the WISHA home page in approximately three
24 weeks.

25 Notice of this hearing was published in the

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1 Washington State Register both on December 1st, 1999, and
2 December 15th, 1999. Hearing notices were also sent to
3 interested parties. In accordance with the RCW, notice
4 was also published 30 or more days prior to this hearing
5 in the following newspapers: The Journal of Commerce, the
6 Spokesman Review, The Olympian, The Bellingham Herald, The
7 Columbian, the Yakima Herald-Republic, and the Tacoma News
8 Tribune.

9 The hearing is being held to receive oral and
10 written testimony on the proposed rules. Any comments
11 received today, as well as written comments, will be
12 presented to the Director.

13 Prior to starting the formal hearing, an oral
14 summary of the proposed rules was given, and a question
15 and answer period occurred. Please refer to the handout
16 provided to you at the door for a copy of the proposed
17 rule.

18 In order to evaluate the potential economic
19 impact of the proposed rule on small business, the
20 department completed a Small Business Economic Impact
21 Statement in accordance with the Regulatory Fairness Act.

22 For those of you who have given testimony at a
23 previous hearing, you will be called upon after all new
24 testimony has been given, provided time permits. We have
25 plenty of people to testify, so I ask that you please

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1 limit your testimony to ten minutes. And keep in mind
2 that we have allowed for a full month to receive written
3 comments.

4 Please remember this is not an adversarial
5 hearing. There will be no cross-examination of the
6 speakers; however, the hearings officer may ask clarifying
7 questions.

8 In fairness to all parties, I ask your
9 cooperation by not applauding or verbally expressing your
10 reaction to the testimony being presented. If we observe
11 these rules, everyone will have the opportunity to present
12 their testimony and help the Director to consider all
13 viewpoints in making a final decision. When we take the
14 oral testimony, please identify yourself, and spell your
15 name for the record. And also, if you would speak into
16 the speaker because of the accoustics of the room.

17 Okay. We'll now take the testimony.

18 * * * * *

19

20 O R A L T E S T I M O N Y

21

22 MR. DEVEREUX: For the record, I'm Greg
23 Devereux, that's G-R-E-G D-E-V-E-R-E-U-X, Executive
24 Director of the 20,000 member Washington Federation of
25 State Employees.

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1 The Federation enthusiastically supports Labor
2 and Industries' proposed ergonomic standard. At each of
3 the hearings you've held around the state, you have heard
4 from Federation members who have encountered work-related
5 musculoskeletal problems. Many suffer conditions
6 resulting from bad workplace design, repetitive motion, or
7 inadequate training. We believe the proposed standard
8 will help create workplaces that prevent injuries, thereby
9 reducing both the high cost of human suffering, as well as
10 the overall employer financial burden.

11 50,000 state fund worker comp claims tied to
12 musculoskeletal injuries with a price tag of \$340 million
13 per year, clearly indicates a major problem in search of a
14 solution. We believe the proposed standard will
15 dramatically impact the existing problem.

16 Briefly, what do we like about the proposed
17 standard? Most importantly, finally there is a standard.
18 It is simple. It is understandable. And it is prevention
19 based.

20 Eventually the standard will cover all
21 employers, and the paperwork burden for those employers is
22 minimized. Employees also will benefit. Employee
23 involvement is encouraged, and employees and supervisors
24 must be trained. Moreover, engineering and administrative
25 controls are preferred under this standard so that

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1 employers fix jobs without simply shifting the
2 responsibility of personal protective equipment on to
3 employees. Last, we applaud L&I for collecting industry
4 best practices in making them easily obtainable.

5 What are our concerns about the proposed
6 standard? First, we would suggest beefing up the employee
7 involvement section. Currently, it is only advisory.

8 Second, while safety committees are emphasized,
9 there is no requirement to involve employee
10 representatives who may be best positioned to assist the
11 employer in job modification recommendations.

12 Third, the proposed standard permits a long
13 start-up time. I understand there will be variations in
14 employer's ability to address workplace problems, but the
15 timetable for some aspects of the standard, like specific
16 educational programs, might be completed more
17 expeditiously.

18 Fourth, the standard provides no protections,
19 i.e. medical management for injured workers. There is no
20 guidance for health care providers, and there's no
21 requirement that employers provide available light work
22 for injured workers.

23 Last, the reduced paperwork burden is a mixed
24 blessing. The employer's ergonomic policy should be
25 written down so everyone knows what it is.

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1 While I am an advocate for state workers, as the
2 Executive Director of the Federation, I am also running a
3 small business employing 52 individuals. At the
4 Federation, we have significantly re-engineered our
5 workplace ergonomically because we think prevention is
6 good public policy. We know a safe workplace improves
7 morale. And we believe the front-loaded ergonomic
8 expenditures are cost efficient.

9 We commend WISHA's straightforward process
10 regarding the formulation of the proposed standard. We
11 hope certain of the aforementioned aspects of the proposed
12 standard will be strengthened through this process.

13 Last, we applaud L&I's leadership on this long
14 overdue standard which will reap benefits for both
15 employees and the overall employer community.

16 Thank you very much for your time.

17 MR. SPENCER: Thank you.

18 MS. LOOMANS: My name is Randy Loomans.
19 Randy with a Y. L-O-O-M-A-N-S. I am the Education and
20 Safety Director for the Washington State Labor Council,
21 AFL-CIO, representing 400,000 workers in our state who
22 support this ergonomic rule.

23 I would like to start my testimony with a quote
24 from Henry Ford made in the early 1900s. "The work must
25 be brought to the man, not the man to the work. The work

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1 must be brought to the man waist high. No worker must
2 ever have to stoop to attach a wheel, a bolt, a screw, or
3 anything in the moving chassi."

4 Even back then, Henry Ford understood the basic
5 premise of ergonomics. It is hard to believe that at the
6 dawn of the 21st Century we have to argue for this rule.
7 There is nothing in this rule that an employer shouldn't
8 already be doing.

9 The general standard upon which our no-fault
10 industrial insurance system is based is very simple. The
11 employer is required to provide a safe and healthy
12 workplace, period.

13 We currently have approximately one-third of all
14 state-funded worker comp claims being musculoskeletal
15 related. And these figures do not take into consideration
16 the self-insured employee or unreporting of employees
17 afraid to file a report for fear of losing their jobs.
18 This means that an unacceptable number of workplaces are
19 not safe and healthy.

20 In today's world, if a product is found to cause
21 injury to a consumer, it is recalled, and the hazard is
22 fixed. Are workers asking too much for the same
23 consideration? Imagine, if you will, what would have
24 happened if one out of every three cars produced by Ford
25 were recalled because they had claims of injury to the

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1 consumer. Could Henry Ford ignore it? No more than you,
2 L&I, can ignore the claims of 50,000 workers each year in
3 our state who experience injuries from musculoskeletal
4 disorder. You can no longer wait for employers to do the
5 right thing by their workers.

6 Though many employers have ergonomic problems --
7 have ergonomic programs, and are seeing the benefits, the
8 majority have chosen to do nothing. And that is exactly
9 why this rule is needed.

10 I have had the opportunity to attend nine of
11 these ergonomic rule hearings, and I'm amazed at some of
12 the testimony. I urge the department to review the words
13 of the workers who are the sufferers of these
14 musculoskeletal disorders. Their stories paint a vivid
15 picture of workplaces that need ergonomic solutions.

16 The business community, or the WECARE
17 Coalition -- I'm still wondering who they care for, it's
18 certainly not the worker -- seems to have come to these
19 meetings with a list of their top ten talking points. I'd
20 like to make a comment on a few of them in particular.
21 Business keeps stating they want to see pilot programs.
22 Pilot programs tend to be industry specific. This rule is
23 much larger than that. This rule provides for a long
24 phase-in period. Three to six years. This is extensive.
25 This gives business plenty of opportunity and time to do

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1 pilot programs, or work with the department. Business
2 also wants a money-back guarantee by reimbursing them for
3 initiatives that failed to work.

4 The employer's responsibility is to identify and
5 reduce hazards, and to work with the employees to that
6 end. If they do this, how can they fail?

7 Business wants L&I to provide technical
8 assistance without a rule. The department, you have
9 provided technical assistance for the past ten years.
10 This assistance has been available to all employees. Few
11 have taken you up on it. Technical assistance is a good
12 thing, but does not work without a rule.

13 Business wants L&I to coordinate with other
14 ergonomic programs and are the federal OSHA rule. Any
15 WISHA rule must at least meet federal standards. The
16 proposed OSHA rule applies after an injury has occurred.
17 On this proposed rule is to prevent injuries from
18 happening by identifying and correcting the hazards before
19 the injuries occur. This rule was crafted with the input
20 of all interested stakeholder groups; business, labor,
21 small employers, trade associations. I would rather have
22 a rule that was developed with our citizens' input than a
23 national rule that was not.

24 Employers also want to establish clear
25 compliance goals and requirements. To this, I say read

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1 the rule. It is quite clear and easy to understand. And
2 the time lines for coming into compliance is longer than
3 any other rule ever adopted by this department.

4 Employers want to be provided safe harbor
5 protections for those who act in good faith. I say to the
6 employer community, "You must define what good faith is."
7 And also restore employer flexibility. They feel --
8 business, that is -- feels the rule goes too far by giving
9 extraordinary power to the employee. This one I have a
10 hard time understanding. What extraordinary power? The
11 rule calls for employers to work with the employees to
12 identify and fix hazards. I have always found that the
13 best solutions come out of labor and management working
14 together to solve the problems. Who better knows the
15 workplace than the workers in it?

16 And last, business is claiming that there is not
17 enough scientific evidence for the rule. The National
18 Academy of Science was commissioned to do an in-depth
19 study. The study concluded that ergonomic programs and
20 intervention can reduce injuries and the relationship to
21 musculoskeletal disorders in the workplace risk factors.
22 Congress did not like the findings of this study, so it
23 appropriated another \$800,000 to do another study.

24 I would quote William Howe, the chair of the
25 National Academy of Science on this subject. "The

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1 study" -- "The first study was more than sufficient. This
2 second study is more to delay any kind of action than it
3 is to really learn anything new. Within the discipline of
4 ergonomics, this is some of the best work I have ever
5 seen. I put it up against the majority of the sciences.
6 These have been the themes for these hearings. I urge
7 those who have not read the rule to look at it in its
8 entirety. You will see how well thought out this rule
9 is."

10 I wonder how many of the people who are
11 testifying against this rule have ever spent any time in a
12 workplace where every day, the hazards they encounter
13 could kill them. I have, and that is why I am so
14 passionate about this rule being adopted by the
15 department.

16 I spent eleven years in the construction
17 industry as a union ironworker. Every day it was a
18 challenge to keep yourself injury free. The employer
19 viewed us as a disposable necessity encouraging us to work
20 safe until safe got in the way of production. This wasn't
21 all employers but many. If you made it home with no
22 injuries, it was a good day.

23 In my three-year apprenticeship, I experienced
24 every process of my trade, every work process. And I say
25 working with rebar rods, as they are often called, had to

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1 be the hardest time of my apprenticeship. Not only was it
2 physically hard, but the impact on your body was
3 unbelievable. You never got broke in; you get broke
4 down. You can't imagine what it was like to be bent over
5 all day long tying rebar. By the end of the day, it hurt
6 to try and just stand up straight. Your hands are cut and
7 bleeding from the tie wire, or the rough rebar. And later
8 in the evening, or when I would sleep, my hands would go
9 numb. It hurt so bad, it's hard to even explain the
10 pain.

11 I was on my way to becoming a candidate for
12 carpal tunnel surgery. I knew this was one aspect of the
13 trade I would never last in. So I did my time, and never
14 returned to rods after I reached journey level status. I
15 have seen so many of my fellow workers become permanently
16 disabled, or have to leave the industry due to
17 musculoskeletal injuries. It is called back breaking work
18 for a good reason. There are no old Sheetrockers.

19 In the construction industry, everything is
20 based on production. A good example is the Sheetrock
21 industry. Here in the United States, the bigger the piece
22 of Sheetrock, the more production per worker. The trend
23 now is towards bigger, twelve foot by four foot pieces of
24 Sheetrock, while in European countries who have had
25 ergonomic rules in place for some time, they've moved to

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1 smaller pieces of Sheetrock, four foot by four foot to
2 save the worker. There are also no old Sheetrockers.

3 You must act. These are skilled workers who are
4 losing their livelihood to preventable injuries. The
5 manufacturer of these products need to use more
6 worker-friendly engineering designs in their products.
7 And management needs to push for these designs.

8 There is only one resolution that can come from
9 taking all of this testimony, and hearing all of this
10 evidence. Employers must provide a safe and healthy
11 workplace. And we know that we have the knowledge and
12 technology available to make that possible.

13 Labor is committed to work with business and the
14 department for safer workplaces. Musculoskeletal injuries
15 and disorders must be prevented. It is up to you, the
16 Department of Labor and Industry, to promulgate rules that
17 will accomplish this. Thank you.

18 MR. SPENCER: Thank you.

19 MR. BILGER: My name is Robert Bilger. I'm
20 the Executive Director of the Washington State Building
21 and Construction Trades Council. The last name is spelled
22 B-I-L-G-E-R.

23 My council represents 60,000 construction
24 workers in a very, very hazardous industry. We account
25 for about five and a half percent of the state's work

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1 force, yet we amount to 25 to 30 percent of all accidents,
2 including accidents around these types of injuries that we
3 are adopting rules for.

4 Throughout the hearings, you've heard from many
5 of these members who've attended these meetings. Many of
6 them have been injured on the jobs. You heard from their
7 representatives, because they've been hearing from the
8 members they represent and the various local unions
9 throughout the State of Washington. And I want to say
10 that I believe they did an outstanding job representing
11 our side, and why it's so necessary to have an adoption of
12 these rules, and to have the adoption done now.

13 I especially want to recognize the effort from
14 the carpenters, who have large problems resulting around
15 ergonomic types of injuries, for being present, and
16 putting forth so you can hear the various concerns that
17 they have in representing their people who are injured.

18 You know, we know what the cost to the system
19 is. We've heard Michael Silverstein tell us what the cost
20 of the system amounts to. But, you know, it doesn't go
21 far enough to tell you what the cost is to the injured
22 worker and his family when something occurs where he
23 cannot use portions of his body to be able to be engaged
24 in gainful employment. It goes far beyond just the cost
25 of Labor and Industries, or the cost to employers because

1 they had to pay a little bit more, or because they had to
2 be a little bit inconvenienced to put rules together.

3 Think what it must be like to a family who has
4 lost the ability to be able to make a living because of an
5 injury on the job site, when the adoption of these rules
6 can do a lot to change that type of a situation. That's
7 why it's necessary that you adopt these rules. I have
8 read the rules. I've read them thoroughly. Though there
9 is things in those rules that I would like to have
10 changed, and I hope that some consideration will be given
11 to some of the testimony, I could find nothing wrong with
12 these rules. I can't find anything out of place or out of
13 order. In fact, as has been stated over and over, these
14 rules should already be being applied by the employers of
15 the State of Washington if they really mean to do
16 something in the way of preventing accidents on the job
17 site. There's nothing in the contents of these rules that
18 could not already be applied.

19 You know, looking back over the history of
20 safety in the work site, and I've opportunity to work with
21 this quite a bit of my working career trying to improve
22 this, none of the improvements for safety have ever came
23 easy. All of them have been resistant. Those that are on
24 the books now, things that are there every day, things
25 that we're used to doing in regards to safety, were, at

1 one time, controversial and opposed by various groups of
2 management people. But now, they're all very proud of the
3 fact that they have a fine safety program. The reason
4 they have these fine safety programs is because
5 government, state and federal helped them to have these
6 great programs, not because they're piling on more rules
7 and regulations, but because it's necessary to have these
8 programs. And I think we could make them all a little
9 prouder, the employers, by adopting these rules so five
10 years down the road they can say what a wonderful job
11 they're doing in regard to ergonomics. These rules will
12 be no different. You'll hear they've been opposed, and
13 probably won't be the end of it.

14 We had testimony earlier in Seattle from my
15 organization done by Knut Ringen, who gave a lengthy
16 presentation for the Washington State Building and
17 Construction Trades Council, and put it all in writing.
18 So you have the opportunity to see, through that document,
19 what it was that -- the real contents that we had concerns
20 with. My delivery here today is more just philosophical
21 and what really happens in the real workplace.

22 So I'm urging you to adopt the rules, and let's
23 get it done, let's get it over with, so everybody can be
24 proud of the fine safety we have in the state of
25 Washington. Thank you.

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1 MR. SPENCER: Thank you.

2 MR. HOLLINGSWORTH: Good afternoon. My
3 name is Bob Hollingsworth, H-O-L-L-I-N-G-S-W-O-R-T-H. And
4 I'm here today representing the WISHA Affairs Committee.
5 This committee is dedicated to health and safety of
6 approximately 7,600 people who work at various aluminum
7 plants in the State of Washington. That includes the
8 following plants: ALCOA and Wenatchee, Kaiser Aluminum
9 Trentwood, ALCOA Intalco Works, Reynolds Metal Company,
10 Vanalco, Goldendale Aluminum, ALCOA of Northwest Alloys,
11 Kaiser Aluminum of Mead, and Kaiser at Tacoma.

12 Collectively, these facilities generate
13 30 percent of the total primary aluminum produced in the
14 United States. They have approximately \$2.3 billion
15 direct annual economic impact.

16 Our members believe that the science of
17 ergonomics is genuine. We know that ergonomic programs
18 are good for our people, and good for business. Each of
19 our plants has working ergonomic programs in place. Since
20 our ergonomic programs are working without government
21 intervention, we do not believe there is need to legislate
22 an ergonomic standard.

23 However, if other parties deem a standard is
24 necessary, then the following comments relative to the
25 proposed ergonomic standard WAC 296-62-051 are provided.

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1 The inclusion of specific technical numbers into the
2 standard too narrowly defines a concept behind caution
3 zone job. The standard should define the concept of
4 caution zone job, and then allow the facility flexibility
5 in the implementation of the concept.

6 The standard should ensure that the concept of
7 "to the degree feasible" is incorporated into all
8 appropriate paragraphs to eliminate any potential for
9 confusion. The standard too narrowly defines the
10 requirements for employee involvement in the ergonomic
11 process. The standard should define a concept regarding
12 employee involvement, and then allow the facility
13 flexibility in the implementation of the concept.

14 Where technical numbers are incorporated into
15 the standard and its appendices, the reference source
16 should be clearly identified for each specific technical
17 number. Specific more detailed comments will be provided
18 prior to the close of the comment period.

19 In closing, the WISHA Affairs Committee applauds
20 the Department of Labor and Industries for its
21 receptiveness to input from the workplace during this
22 standard development process. Thank you.

23 MR. SPENCER: Thank you.

24 MR. SEXTON: Good afternoon. I'm Dan
25 Sexton, S-E-X-T-O-N. I serve as the legislative director

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1 for the Washington State Association of Plumbers, Pipe
2 Fitters and Sprinkler Fitters.

3 It's hard to add much to the excellent
4 introduction and explanation by Dr. Silverstein that we
5 had here today. I think this is more than just good sense
6 and good science. How much good science do you need? I
7 think there's more science behind ergonomics than we have
8 behind evolution. I think if you look back at some of
9 what Dr. Silverstein said, the NIOSH report was over 200
10 studies. 200 studies. Why do we have so many workplace
11 injuries right now? The State of Washington leads the
12 nation in construction site injuries by twice the national
13 average.

14 As previous testimony here said, there's nothing
15 in these rules that should not be done right now.
16 Employers have a responsibility to provide a safe
17 workplace. These rules are good for employers and
18 employees and the state alike. I strongly urge their
19 support. And I will be supplying written testimony.
20 Thank you very much.

21 MR. SPENCER: Thank you.

22 MS. WITMER: My name is Deborah Witmer,
23 that's D-E-B-O-R-A-H W-I-T-M-E-R. And I'm with the DJ
24 Witmer Company. We are a third party administration firm
25 for worker's compensation and unemployment benefits. I

1 have a number of concerns regarding the proposed
2 ergonomics rule designed by the Department of Labor and
3 Industries. My concerns are both for the employer and the
4 employee as I feel this rule could have adverse effects on
5 both.

6 Number one: The identification guidelines for
7 caution zone jobs are not sufficient. For instance,
8 listed in the criteria for analyzing and reducing WMSD
9 hazards using the Specific Performance Approach, under the
10 "Neck" heading it lists, bending the neck without added
11 support 45 degrees or more for more than four hours per
12 workday qualifies the job as a WMSD hazard.

13 First of all, the employer may not be able to
14 correctly judge this 45 degree angle. And secondly, it is
15 quite possible that an employee may use this practice even
16 when not essential to the job. Many people have poor
17 posture, and keep their necks bent at awkward angles. Are
18 we now going to make employers responsible for monitoring
19 and improving their workers' postures?

20 In the same section under the heading for "Arms,
21 wrists, and hands," it lists, Gripping an object weighing
22 more than six pounds per hand combined with a highly
23 repetitive motion for more than three hours per total
24 workday, qualifies a job as a WMSD hazard.

25 Who decides what highly repetitive is versus

1 moderately repetitive or fairly repetitive? This is a
2 very subjective call. Likewise, under the qualification
3 for intensive keying, the employer is to determine if
4 there are awkward postures. Who qualifies for the
5 employer what intensive keying is versus frequent keying
6 or moderate keying, and who determines what qualifies as
7 an awkward posture? Since people differ, and what may be
8 awkward for a person of, for instance, five feet six
9 inches tall may not be awkward for another person five
10 foot six inches tall. Employers are not ergonomic
11 specialists, yet this rule is putting them in the position
12 of making decisions that even specialists in this field
13 have struggled with.

14 I attended the Tacoma public hearing on this
15 issue, and when the question of who was available at the
16 Department of Labor and Industries to assist with these
17 types of decisions was asked, there was no clear answer.
18 The only part of the answer that was definitive was that
19 there would be no staff increases in the occupational
20 therapist, vocational counselor, or risk management and
21 safety staff to cover this need. And we were advised that
22 the assistance available to the employer would depend on
23 how many staff members were assigned to the local service
24 locations.

25 As a claims administrator, I can tell you that

1 it's not unusual to wait up to six months in some areas of
2 the state for a Department of Labor and Industries
3 occupational or physical therapist, vocational counselor,
4 risk management or safety person to be available under the
5 present circumstances. In fact, in some areas, the safety
6 and risk management staff appear to do compliance
7 inspections only at this time, and are not available for
8 any employer assistance.

9 If we are depending on the present staff numbers
10 to be able to provide the needed assistance to employers
11 in sorting out their WMSD hazards and altering the jobs to
12 minimize the risk, then this will not get done. The only
13 other alternative for employers is to spend money on
14 private ergonomic specialists for the needed assistance.
15 Many employers are unable to afford such expenditures, and
16 those who can't afford this will have to cut spending
17 elsewhere, which could mean fewer raises or benefits for
18 their employees.

19 At the Tacoma hearing we were advised that if
20 there is a WMSD hazard, it is the employer's
21 responsibility to reduce the exposure below the hazardous
22 level, or as much as possible. For many employers in this
23 state, the way to reduce hazards may well be to reduce the
24 number of hours that employee works. Although this will
25 comply with the rule, it will certainly not benefit the

1 employee. And on a more probable-than-not basis, the
2 employee will have to work two or more jobs to make ends
3 meet, and will still suffer the same exposure.

4 For example, at an automobile lube shop,
5 employees lift their arms above shoulder level for the
6 bulk of the workday. For shops that specialize in just
7 this activity, there is usually one counter person who may
8 do some lube jobs, but is principally just a counter
9 person, and several lube technicians whose entire job
10 consists of performing lube and vehicle inspections from a
11 pit area with an occasional tire check and windshield
12 wiper change. In order to limit their repetitive raising
13 of the hands above the shoulder level to under four hours
14 per day, it may be necessary to have these technicians
15 work only four to five hours per day.

16 So now poor John who used to work nine- to
17 ten-hour days with one to two hours of overtime a day,
18 will be reduced to four to five hours a day and will have
19 to go down the street and work for a different lube shop
20 for another four to five hours per day. In fact, since he
21 will no longer be getting overtime pay, he may have to
22 work two other jobs. And now his risk is increased
23 because he's working twelve hours a day for the same pay.
24 However, the employer is complying because he has limited
25 John's exposure to only four hours per day.

1 The employer is dealing with more employees, and
2 the employee is subjected to higher risk, not to mention
3 the fact that John now has lost his employee benefits
4 because he's no longer a full-time employee. This does
5 not seem to benefit anyone. And I'm sure this is not the
6 intent of this rule. Although in many cases, it may be
7 the reality.

8 There is no statistical data that definitely
9 verifies that any of the reductions stipulate that the
10 rules will accomplish a reduction in WMSD claims. There
11 are only statistics indicating how many claims are filed.
12 And none of these statistics take leisure time activities
13 into account. When asked about leisure time activities at
14 the Tacoma hearing, we were told that these are already
15 segregated out of claims, so do not affect these
16 statistics. This is not true. Leisure time activities
17 only come into play when there is no exposure and has been
18 no exposure on any job site.

19 For instance, if Sam does keyboarding activities
20 for three and a half hours a day at work, and surfs the
21 Web on his home computer for an average of five hours per
22 night, when a WMSD claim is filed, the concern of the
23 department is whether there is any exposure at work, and
24 if so, there is no segregation of home activities. It
25 doesn't matter that Sam surfs the Web at home, or that he

1 has a small machine shop in the garage, and repairs
2 carburetors using hand tools, or that he plays golf every
3 weekend. No one cares, as long as Sam has some exposure,
4 no matter how little, at work. So until the statistics
5 you were citing take into account the activities over
6 which the employer has no control, then your statistics on
7 the occurrence of such claims are skewed.

8 In fact, if you will review the testimony given
9 in Tacoma, some of the testimony definitely indicated such
10 accommodations would make no difference. One of the
11 persons testifying spoke about how wonderful her employer
12 was, and how many accommodations had been made based on
13 the recommendations made by a certified ergonomic
14 specialist. She then stated that in spite of all of the
15 accommodations, WMSD injuries had continued to occur, and
16 even she had developed tendinitis.

17 Until there are some actual statistics
18 indicating that the drastic steps employers will be forced
19 to take under this rule -- under this proposed rule which
20 will actually make a difference, the rule is premature.
21 If you truly feel this rule is appropriate, then a pilot
22 program would give you the statistical data necessary to
23 qualify this belief. I would suggest that the pilot
24 program would need to be two part: One part that compiles
25 realistic statistics about WMSD claims filed, taking

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1 leisure activities into consideration, and one part that
2 executes the proposed rules, and determines after a
3 specific period of time, if there is a significant
4 reduction in such claims being filed.

5 In Tacoma, when the question about how this rule
6 would be enforced arose, the answer was that if a safety
7 inspector from the department made the determination that
8 a WMSD exposure existed, it would then be up to the
9 inspector to determine if the employer was generally
10 physically able to make accommodations to eliminate the
11 exposure, and whether this was economically feasible.

12 Since the employers who are looking at their own
13 work sites are trying to be ergonomic specialists and
14 determine if an exposure exists based on loosely defined
15 guidelines, it is reasonable to assume that they may not
16 always agree with the inspector about the degree of
17 exposure.

18 Additionally, again, since the average employer
19 is not an ergonomic specialist, they may not see a
20 possible solution to the problem that a professional might
21 easily be able to ascertain.

22 And finally, since there is no maximum dollar
23 amount imposed on the term "economically feasible," the
24 employer will be at the mercy of the inspector's whims.
25 What the inspector feels is economically feasible may well

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1 be totally out of the question for the employer to
2 afford.

3 As the federal government has not yet ratified
4 OSHA standards for ergonomics, and as Washington standards
5 must meet or exceed federal standards, it appears we are
6 jumping the gun by proposing to initiate a standard
7 without a federal guideline to use for comparison.

8 In conclusion, I would like to say that most
9 employers recognize that their most valuable asset is
10 their employees. Most employers would gladly alter their
11 job sites to preserve this asset if there was any evidence
12 that this rule would make a difference. However, to
13 impose such a rule on employers with no evidence to
14 support its potential success is erroneous. The
15 Department of Labor and Industries has a responsibility to
16 not impose punitive measures on employers. And this rule
17 is punitive until, at the very least, a pilot program can
18 be done to substantiate that such drastic measures will
19 actually produce a positive result. Thank you.

20 MR. SPENCER: If I could remind you. For
21 those of you who are going to testify from prepared
22 scripts, that you slow down just a little in deference to
23 the court reporter, because we tend to read faster than we
24 talk.

25 MS. BALCH: Don Brunell was the person that was

1 called up, but unfortunately he had to leave for another
2 appointment. As I represent the same association, I'll be
3 speaking on behalf of the Association of Washington
4 Business as well as the WECARE Coalition.

5 For the record, my name is Amber Balch,
6 B-A-L-C-H. And I'm representing the Association of
7 Washington Business today, as well as the WECARE
8 Coalition, which was formerly known as the Washington
9 Employers Concerned About Regulating Ergonomics.

10 Our coalition is made up of hospitals, cities
11 around the state, business organizations, chambers of
12 commerce, private and public employers. While we're all
13 very different in our types of industry, size, and
14 location in the state, we share a basic principle; we
15 value our employees. Injuries of any kind are a tragedy.
16 Employers want to provide a safe workplace for their
17 employees to come to work to; but more importantly, to
18 keep them safe on the jobs so they can go home at night.

19 Regretfully, we are here in opposition to L&I's
20 effort to regulate the workplace by imposing unreasonable
21 ergonomic regulations on public and private employers in
22 our state. Unfortunately, current science cannot provide
23 employers with much-needed answers before regulating this
24 very controversial and complex issue. Employers need to
25 know that their investments in money, time, and resources

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1 will result in fewer injuries before the rule is adopted.

2 It was said earlier in the introductions that
3 employers have a choice when they comply with this rule.
4 That's right. They have a choice to choose wrong or
5 choose right. And that's what it is; a guessing game for
6 employers. This is not a responsible way to regulate.

7 We believe that there has been a very lack of
8 responsiveness on behalf of L&I during the rule
9 development phase of this ergonomic proposal. As the
10 state went around gathering comments from employers around
11 the state, many of those same employers, those 400
12 employers that came out in the early developmental stages
13 of this regulation thinking that they might have some
14 impact on the direction L&I took, feel as if their
15 comments have been ignored.

16 We have also participated and watched the
17 advisory committee process that L&I construed, and
18 disbanded. The rule advisory committee was disbanded
19 before ever providing advice on the department's proposal
20 on ergonomics. This is not appropriate. I would hope
21 that the department looks back to the developmental stage
22 of this regulation, and get those comments from those 400
23 employers on the record for its consideration.

24 As I said earlier, these requests for pursuing
25 less burdensome approaches than regulation have been

1 ignored.

2 The committee not only did not receive
3 consensus, as I said earlier, but they've been disbanded,
4 and have not looked at the rule at all.

5 It's been mentioned already that the ergonomics
6 proposal by L&I is perceived by the employer community as
7 premature. This comes for good reason. There is a
8 complete lack of consensus in the scientific and medical
9 community as to the causes and proven preventative
10 remedies for musculoskeletal disorders. We have a lot of
11 scientific literature out there. It's awash with studies
12 that fail to provide scientific evidence, and instead rely
13 on anecdotes and testimonials for proof.

14 In addition, there's an entire body of
15 literature citing nonwork factors as increasing one's
16 likelihood of contracting an MSD. These things include
17 such things as weight, diet, vitamin intake, pregnancy,
18 and a multitude of other factors.

19 NIOSH even recognizes this in the publication of
20 their national occupational research agenda. The author
21 has noted that additional research is needed to determine
22 the hazards and exposure levels that cause MSDs, and to
23 understand how certain activities and diseases create
24 MSDs. This wasn't the only place they acknowledged this.
25 They acknowledged this in a critical review of

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1 epidemiological evidence for work-related musculoskeletal
2 disorders of the neck and upper extremity.

3 Now, I'm sure the department has this on their
4 files, as they note it as one of their references. But
5 they fail to point out that the authors note a lack of
6 objective measures and standardized criteria to define
7 work-related MSDs. The NIOSH review noted the lack of
8 data to determine how much risk exposure causes an MSD,
9 and concludes it is recognized that additional research
10 would be quite valuable. Regulations are premature. Even
11 the archives of internal medicine, American Medical
12 Association recognizes this, that their report on carpal
13 tunnel syndrome, recognizing the multitude of factors that
14 again cause these injuries.

15 What it really comes down to is that scientific
16 and medical experts cannot tell employers how heavy is too
17 heavy; what is an awkward position; how far to reach is
18 too far. And while L&I provides its own answers to
19 employers, there is no assurance that these answers will
20 provide injury reductions.

21 These regulations being promulgated by L&I are
22 not evenly justified by L&I's own data and surveys that
23 they have done in this area.

24 In the CR-102 supplement report, L&I identifies
25 two agency-developed reports that document their

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1 justification for rule-making. These reports include the
2 worker comp data from 1990 to 1997, a technical report.
3 It also includes a survey of Washington employers of
4 prevention efforts on musculoskeletal disorders. These
5 raise significant concerns about the methodologies that
6 were used in these reports, and therefore, the conclusions
7 that were drawn.

8 Both reports appear to contradict L&I's effort
9 to regulate this matter, as well as contradicts many of
10 their approaches that they propose. For example, in the
11 technical report, it is noted that the Bureau of Labor
12 Statistics in its coding process does not include upper
13 extremity disorders associated with overexertion as being
14 in the category of repeated trauma. Yet in L&I's
15 analysis, they include overexertion in the gradual onset
16 definition. This appears to have a significant effect on
17 the total number, one-third of all claims, of gradual
18 onset injury reported. This is not the only example.

19 In the employers' survey, it was also observed.
20 But the majority of employers who responded did not
21 consider MSDs to be a major job problem in their
22 workplace. Correspondingly, it also observed that
23 approximately two-thirds of employers did not report
24 having any MSDs. This same data is recognized by L&I's
25 claims that a third of all employers have these injuries.

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1 The survey also showed that the majority of
2 employers in our state do not perceive a state regulation
3 to be helpful in reducing musculoskeletal disorders. In
4 addition, the survey found that the majority of employers
5 who had reported these injuries, 61 percent, had reported
6 taking steps to reduce or prevent them. The primary
7 reason for absence of preventative activities was the
8 absence of an MSD problem. L&I's proposal doesn't
9 acknowledge that many employers do not have these injuries
10 reported in their workplace. They take a holistic
11 approach, and treat all employers, despite a good injury
12 record, the same.

13 Most important, the survey does not provide
14 clear evidence of MSD risk factor patterns, and finds that
15 many such risk factors are, in fact, not associated with
16 MSD occurrence. Close to half, or in some instances, a
17 majority of employers who have undertaken efforts to
18 reduce MSDs reported that they did not observe positive
19 changes related to their efforts, yet the department
20 continues its quest to regulate. This results in a costly
21 experiment on employers.

22 L&I asserts that an ergonomic standard would
23 save us money. But there is simply no assurance that an
24 ergonomic regulation across all industry sectors will
25 result in any greater of reduction of injuries than the 28

1 percent reduction we have already seen since 1990 on
2 behalf of voluntary efforts of employers. Some employers
3 have seen cost decline, while others are spending money
4 and seeing no changes whatsoever. Still, others are
5 spending money, and having claims increase. Individuals
6 are well positioned to study what works in their
7 workplace. However, anecdotal examples of existing
8 programs do not support an imposition of a regulation
9 across an entire economy.

10 The Small Business Economic Impact Analysis that
11 L&I conducted we believe grossly underestimates the
12 economic reality that this regulation will bring to
13 Washington employers. We strongly encourage the agency to
14 relook at the impacts they identified to make a closer
15 review before making their decision to adopt the standard,
16 to work with the business community to identify what would
17 be the real costs of the standard to implement.
18 Considering the half a million dollars associated with the
19 Department of Labor and Industries' pilot program in the
20 nursing home industry, upfront costs of a half a million
21 dollars for one segment of an industry for one segment of
22 a problem. These costs that L&I projects cannot be
23 realistic.

24 We believe that the failure to coordinate with
25 OSHA is going to be an extra burden on Washington

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1 employers. We should not subject our employers in
2 Washington state to two inconsistent approaches. While
3 L&I maintains this is not a problem, and employers have
4 only to comply with Washington state, they seem to ignore
5 the large number of multi state employers that live and do
6 business in Washington. These employers will be faced
7 with complying with two different legal tests, two
8 different standards, and consequently, two different
9 business practices, all without the assurance of injury
10 reduction. This approach is simply uncalled for.
11 Employers deserve better. The least L&I can do is hold
12 back formal adoption until the completion of OSHA'S
13 rule-making activity, and to work with the business
14 community in a cooperative fashion to make inroads on
15 these very troubling injuries in our state.

16 In conclusion, we have talked about pilot
17 programs. And I'm going to continue to talk about them.
18 They'll be discussed here, they'll be discussed with the
19 department in ongoing meetings, and they're being
20 discussed at the legislature. We believe a pilot program
21 of the department's proposed regulation, not industry
22 segment approaches to certain injuries in the workplaces,
23 but a comprehensive pilot program that takes this proposal
24 through the test of compliance, ease of understanding, the
25 actual cost of implementation, the results of injury

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1 reduction. Until these answers have been provided, we
2 believe L&I should withdraw its rule-making efforts.

3 The department has said that this proposal is
4 fair, feasible, and flexible. I suggest to you that it is
5 not. It is completely the opposite. It is unfair,
6 unjust, and unreasonable. The department has said it
7 wants to work with the business community, but refuses our
8 offers to work with them. We hope the department
9 considers these remarks very carefully before it concludes
10 its decisions later this year.

11 We are going to be submitting additional written
12 comments and back-up information in our written comments.

13 And thank you for the opportunity to testify.

14 MR. SPENCER: Thank you.

15 MR. HENKEN: I'm Doug Henken. I'm the
16 president of HDMKEM. I'm the president of the Washington
17 Food Industries. We represent grocery retailers,
18 manufacturers, brokers, and wholesalers in the great state
19 of Washington.

20 To give you a flavor of what the food industry
21 represents in the state, 30 of the top 100 companies that
22 are privately held are food businesses. So as you can
23 see, the food industry and its employees have a
24 significant role in the well-being of the state's
25 economy.

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1 I also want to commend the department, and in
2 particular, Michael Silverstein on his willingness to meet
3 with our industry in private meetings so that we could
4 voice our concerns on their rule. We truly believe an
5 open dialogue is always a positive thing in our eyes. The
6 Washington food industry board of directors, who I might
7 add are the people that employ a good portion of the
8 fellow citizens with high wage jobs that have good
9 benefits, are opposed to increased government regulation
10 in the ergonomics arena. Instead, the food industry
11 supports a pilot project, and increased technical
12 assistance over controversial, unscientific regulations
13 like the ones we're talking about today. Not to mention
14 the fact that this rule could cause real people with
15 families to lose jobs.

16 Our safety professionals in our industry have
17 sat down and reviewed the rules on ergonomics, and we have
18 five concerns that I want to talk about today.

19 In announcing the rule, L&I's press release
20 stated that MSDs cost business in this state too much, and
21 that the rule is good for employers. Businesses would
22 have already placed strict one-size-fits-all rules on
23 themselves if they thought it would be good for job
24 creation, and to the most valued asset, employees.
25 Instead, our industry has been able to dramatically reduce

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1 MSDs, and the number of time lost days to MSDs due to
2 instituting their own programs without government
3 interference.

4 According to L&I's own figures, we have seen a
5 dramatic 79 percent decline in the number of time lost
6 days due to MSDs, and a 76 percent decline in the cost of
7 MSD claims.

8 This, at least for our industry, and I'm sure
9 for other industries, L&I's MSD argument does not hold
10 water. We're also hearing the same thing from our
11 self-insured members that are part of our association.

12 With this type of progress, one wonders why the
13 state agency must now come in and tell us how to manage
14 our workers. You see we have every incentive to keep
15 workers safe, and working without injuries because of the
16 fact that we are presently spending a substantial amount
17 of money on training programs.

18 Also, our labor market forces employers to take
19 care of their employees because the employees always have
20 the option of changing jobs. Again, another phenomenon
21 going on in the workplace that is happening without
22 government telling us how to do things.

23 Our second issue that I want to go over is I
24 want to review how we're going to take this theory and
25 apply it to the real everyday business practices. And I

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1 want to emphasize this, and I want to say it loud, and I
2 want to be very clear so nobody gets confused. This rule
3 will force automation and significant job losses on food
4 industry workers.

5 I find it ironic that my good friend, Randy,
6 started out her presentation with the automotive
7 industry. I do not visualize workers standing on an
8 assembly line. I visualize automation and robots. And I
9 find it even more ironic, and in particular, our case with
10 the United Food and Commercial Workers who I understand
11 are to fight for membership and their jobs, that they
12 aren't working with us, and expressly since we've
13 expressed a willingness to work with them, to work on
14 improving the safety in our workplace.

15 The people, the job professionals, in our
16 industry that keep the worker and help keep the worker
17 safe, are concerned about complying with this rule. If we
18 do as I've mentioned before, our concerns, and our
19 recommendations are going to be in the mode of
20 automation.

21 You have to take employees completely out of the
22 equation to comply with this rule. Our professionals are
23 telling us that nearly every job in a grocery store will
24 be covered by this rule. This would mean government
25 mandated job rotation and micromanaging of the workplace

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1 by L&I. The rule would disrupt union contracts that have
2 been worked on over several years. And these contracts
3 are very detailed, and they're negotiated over several
4 months.

5 After decades of hard work, our industry has
6 figured out how to keep its workers safe while bringing
7 American citizens a quality food at a low price. These
8 are reasons why Americans spend a lower percentage on
9 their disposable income on food compared to other
10 nations. Our industry has figured out how to be efficient
11 and safe. This rule disrupts our finely-tuned system
12 without the assurance of improving the injury rate of our
13 industry.

14 One major food retailer came to me some time ago
15 when I asked him why he did not locate his large warehouse
16 in our state. He said, "Doug" -- and by the way, this is
17 the president and CEO of the company, he said, "Doug, it
18 took me no less than 20 minutes to decide I was not coming
19 to Washington. Sorry." And it's ironic.

20 We just recently read in Site Selection Magazine
21 that Washington state is 49th out of 50 states in ranking
22 in a recent study on why businesses would move to
23 different places within our nation. This ranking is a
24 shame, and it's part of the reason L&I does not need yet
25 another unscientific regulation to force employers to hand

1 out pink slips.

2 Reason three. Another reason we oppose
3 government regulations is because of the enormous amount
4 of controversy, and lack of consensus in the scientific
5 and medical communities as to whether or not this rule
6 would actually reduce injuries in the workplace. I'll
7 give you a few opinions from national experts first.

8 "With ergonomics, there is no consensus on how
9 to accurately identify a hazard exposure." That quote
10 came from Dr. Stephen Moore, Co-director at Ergonomics
11 Center at Texas A & M University.

12 Dr. Moore also has said, "There is inadequate
13 information at this time to promulgate a specific
14 standard."

15 Dr. Sabo, Chief of hand and microvascular
16 surgery at the University of California has said, "Most
17 occupations have little or nothing to do with causing
18 carpal tunnel syndrome."

19 Dr. William McMaster, President of the
20 California Orthopedics Association said, "We see no
21 scientific evidence that they, the injuries, are
22 singularly work caused. That would help explain why two
23 employees working side by side, performing the same work,
24 present different outcomes."

25 As you can see, some of the top doctors in our

1 country feel that regulation is not the way to go.

2 Number four. After talking to experts at the U,
3 Washington State, and some national prevention experts at
4 the national level, we feel L&I's prevention index is
5 flawed and too untested to be a state agency rule. None
6 of the experts our association talked to had ever heard of
7 a prevention index. And most felt this was an equation
8 that was put together to extract numbers out of L&I's
9 stats so the department would have something to justify
10 rule-making.

11 We reject the notion of prevention indexing, and
12 will work with the department to figure out another way to
13 view industries and their job rates.

14 WFI will never ignore the injuries our workers
15 sustain at work. We are constantly looking for ways to
16 continue to work on the declining injury rates we
17 presently have. To that end, I offer up a real world
18 solution. A trade association's job is to bring all of
19 the components together; government, the unions, and our
20 members. We want to do that.

21 And we suggest that the departments, and these
22 other experts, sit down on a voluntary basis to figure out
23 a way to build on the already declining injury rates. And
24 we suggest using science that has consensus backing it
25 up. We can put ourselves in a win/win situation for all

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1 interested parties without a rule. We have substantial
2 success stories.

3 We would also like to commend the department for
4 instituting a safety grant program. For example, we are
5 putting together a proposal with our labor unions to bring
6 to the table. And we are doing it on a voluntary basis.
7 It isn't anybody telling us we have to do it. And we
8 aren't doing it out of fear. We're doing it because we
9 sincerely care about our employees, and want to improve
10 the work situation. We have a long list of examples about
11 employers and employees in our industry, have sat down
12 together and worked out successful voluntary, without
13 government interference, programs.

14 Thank you.

15 MS. HUGHES: Excuse me. Your first concern
16 that you listed, you referenced some data that you had
17 that indicated decreases in your industry. Can you submit
18 us some information?

19 MR. HENKEN: Sure. And we'll submit the
20 testimony -- the extensive testimony of the doctors.

21 MS. HUGHES: Okay. Thank you.

22 MR. SPENCER: After these three testify,
23 then we'll take a break.

24 MR. MULLEN: My name is Bill Mullen,
25 M-U-L-L-E-N. I'm here representing Wal-Mart. And I'm

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1 enjoying my great visit to your great, beautiful state.

2 I think at last count, we had roughly 26 stores
3 in Washington state. And hopefully we will have more.

4 As far as your efforts to develop a standard,
5 again, we feel that you have to keep in mind that you're
6 going to have to be equal to or greater than a federal
7 standard. So I think we feel that you're jumping the
8 gun. Obviously we would like to see a good federal
9 standard since we're all over the place. And it's very
10 difficult for us to deal with these things state by state,
11 no matter how well intended the people involved in these
12 things in these particular states are.

13 I applaud you for trying to simplify your
14 regulation and eliminating the medical management
15 portion. We think that is the right approach. Not that
16 medical management isn't important, but we don't feel it
17 belongs, really, in this standard to be regulated.

18 We do have some concerns in some things that you
19 think -- we think you need to consider. One is -- and
20 I'll start with the simple and work to the more
21 progressive -- we certainly have been adjusting ergonomics
22 for some time, and try to do our very best to eliminate
23 these musculoskeletal disorders whether they're
24 work-related or not.

25 We feel that one of the things that was absent

1 is adjusting multiple sites. We have roughly 26 similar
2 sites in your state. When analysis or assessment is
3 indicated, an analysis of a representative work should be
4 acceptable, and that information transferable to other
5 multiple sites within the company, when appropriate. And
6 we didn't find any reference to that in your standard.

7 We had a little concern with employee
8 involvement. We at Wal-Mart believe that they're our best
9 idea generators. And we always involve our employees, and
10 educating them to the point that is feasible to identify
11 exposures to tell us what they think is wrong. We do
12 caution you, and feel it would be very time consuming, if
13 not impossible, for us to train our associates to the
14 point where they could determine what analysis approach
15 should be taken, what corrections are necessary, and how
16 effective, and what is feasible. So we hope you don't
17 take it to that extent.

18 One of the concerns, as others seem to have with
19 your process or your check list for determining if you
20 have caution zone jobs, we sell merchandise of all sizes
21 with a lot of skews. When we used your checklist to
22 determine caution zone jobs, we found it to be virtually
23 all-inclusive. We didn't think we gained very much. We
24 thought there was a major loss, in fact, because then you
25 were telling us that we had to do a certain amount of

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1 ergonomic training at that point in time. Yet our records
2 indicate that our musculoskeletal disorders come from a
3 small skew of the work environment. So we don't feel that
4 your tool is very accurate. We think you need to take a
5 second look at it, and come up with something better, at
6 least for a retail environment.

7 Another area of concern is in analyzing and
8 reducing work-related musculoskeletal disorder hazards.
9 Many of our jobs have low-level exposures to cumulative
10 trauma, and with a lot of variables. These disorders make
11 it very difficult to prove or determine what proposed risk
12 factors are relevant. Your rigid checklist, and I'll
13 include all of your checklists, are all virtually the
14 same, and are very rigid, because you clearly define the
15 risk factors. We would like you to take a second look at
16 this.

17 And if you really are trying to be flexible, to
18 not tell us what the risk factors are, you will very soon
19 be outdated. In fact, you already are. And you're
20 leaving yourself very open for a lot of change. And we
21 have dealt with compliance officers, as everyone in this
22 room has, and we know as soon as you give them a
23 checklist, that's virtually the only thing that they rely
24 on. And if your checklist includes those risk factors,
25 they're going to be applying them whether they have

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1 legitimate application or not, and there's many risk
2 factors that you have left off.

3 And so we think -- in your checklist, as other
4 testimony has kind of drawn to, you're already outdated in
5 your oversimplification of that process. And allow us who
6 care a lot about our people, to develop our own with less
7 direction at that point.

8 Analyzing and reducing work-related
9 musculoskeletal disorders. There are places in your
10 checklists where we feel that we would be classified as
11 WMSDs. We have done a lot of engineering, put in some
12 major changes in these areas, and have reduced
13 musculoskeletal disorders significantly with the kind of
14 results that you're already indicating you hope for. We
15 haven't necessarily reduced all of them. As you also
16 referred to, that that's not always feasible, because
17 they're not always work-related. We feel, as some of the
18 other testimony that has been made here today, that if you
19 force us to correct these things beyond the point that
20 we've already done, that we may have to automate. And I
21 don't think this is the approach that you want us to
22 take.

23 One of the great things that Sam Walton always
24 had going is he had, you know, the shareholders and the
25 availability of jobs for a lot of people. And he's been

1 very successful for that. And we don't particularly want
2 to have to do that, either. But in all honesty, our
3 experts took a look at this, and we felt that in these
4 isolated cases, the only way we can comply with your
5 present standard would be to take the human component
6 out. So we would like you to take a second look at that.

7 I appreciate your time. And I do also
8 appreciate your concern and effort. Thank you.

9 MS. HUGHES: Thank you. And you referenced
10 that you have reduced your MSDs significantly in your
11 business?

12 MR. MULLEN: Yes. In certain aspects of
13 our business.

14 MS. HUGHES: Do you have some information
15 on that that you could provide to us in your written
16 testimony, perhaps?

17 MR. MULLEN: I will check on that. I'm not
18 in a position to determine that. But if we are able to do
19 that, we will include some.

20 MR. NEELEY: My name is Jim Neeley,
21 N-E-E-L-E-Y. And I'm Vice-president of Local 3099,
22 Western Council of Industrial Workers in Aberdeen.

23 I'd like to start out by quoting Director Gary
24 Moore. It's about protecting the worker's body from
25 unnecessary wear and tear on the job. It's about reducing

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1 pain and increasing productivity. That's good for the
2 worker, and it's good for the employer. What we're here
3 about is a win/win situation with this proposal.

4 In a perfect world, employers would protect
5 their employees. Nobody wants to see an injury. I
6 commend employers that take the responsibility of having
7 an ergonomics program and working towards it. For the
8 ones that don't, I feel it's criminal. They're aware that
9 there's a problem there, but they won't protect their
10 employees. That's why we need this proposal. A lot of
11 employers are good employers. They will work to protect
12 their employees.

13 I've worked in the timber/lumber industry for
14 over 34 years. I've seen a lot of unnecessary
15 musculoskeletal disorders. I've seen a lot of pain. And
16 I've seen a lot of suffering. I've seen a lot of
17 surgeries that could have been prevented if we had, back
18 then, ergonomic training. I was one of them -- one of the
19 people that's been injured. I've had surgery. I went
20 through six weeks of hell.

21 I've been involved with safety for 26 years.
22 And I work at Weyerhaeuser, Aberdeen Lumber. I'm a
23 millwright. I've laid my job on the line numerous times
24 in the past 26 years for safety and health. Weyerhaeuser
25 finally saw the light about ten years ago. I don't have

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1 to put my job on the line. They've become a leader when
2 it comes to ergonomics, safety and health. In the last
3 three years, we've had over 20 MSDs. Weyerhaeuser went
4 out of their way to find out the problem. We've contacted
5 Labor and Industries, Dr. Barbara Silverstein and her
6 staff from the SHARP program has come down to Aberdeen.
7 They've worked with us numerous times.

8 In a planer department when somebody works
9 there, we have three different shift variations,
10 eight-hour shifts, we have ten-hour shifts, we have
11 twelve-hour shifts. And if you can imagine somebody
12 standing there for twelve hours turning 2 X 4s 20 foot
13 long or 4 X 4s that are 20 foot long, or even 4 X 6, or
14 4 X 10 that are 20 foot long for twelve hours a day,
15 they're going to end up with a musculoskeletal disorder.
16 There's no doubt about it. But with Dr. Barbara
17 Silverstein and the SHARP program, we've overcome that.

18 Weyerhaeuser has done a lot of research in this
19 area. We've tried several different things to eliminate
20 the problem; engineer it out. It didn't work.
21 Weyerhaeuser didn't give up. We kept going back. We
22 found a solution for our problem. We've eliminated from
23 over 20 musculoskeletal disorders down to nil. We will
24 have zero incidence in the planer because of repetitive
25 motion.

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1 I thank the department for having Dr. Barbara
2 Silverstein and Dr. Michael Silverstein on board, because
3 without them, this wouldn't have happened. If you need
4 any help, all you have to do is ask. They're there for
5 you.

6 I think that this proposed rule should go one
7 step further than what's in there. I think that all
8 employers with 50 or more people must have an ergonomics
9 team. I feel very strongly about that. I oversee a lot
10 of unions in my district. I see some good employers. I
11 see bad employers. The good ones, I commend, like I said
12 before. The bad ones, it's criminal. That's what we need
13 this proposed change for. Without it, they're not going
14 to do it on their own, and we will keep on having
15 musculoskeletal disorders. There will be more surgeries.
16 There will be more injuries.

17 Anyway, I sincerely urge business and employees
18 to work together on this. It's a fair rule. We need it.

19 I would like to end by quoting Dr. -- or
20 director Gary Moore one more time. And that is, "Workers
21 don't come with spare parts."

22 Thank you.

23 MR. SPENCER: Thank you.

24 MR. LINCH: My name is Owen Linch. And I'm
25 the legislative director for the joint council of

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1 Teamsters. And I also run a local union here in Thurston
2 County, Teamsters Local 378. My last name is spelt
3 L-I-N-C-H. And I'd like to offer some testimony, and I'll
4 try to be brief.

5 We shouldn't need a standard, but obviously with
6 50,000 injuries per year, we do need a standard. And
7 these are injuries that aren't random mishaps. These are
8 injuries where employees are doing what they're assigned
9 to do in the fashion in which they're assigned to do it.
10 We appreciate the fact that this rule addresses work sites
11 before injury. We think that that's an important aspect
12 of an ergonomic standard. However, I would like you to
13 look at the phase-in period. We feel that the phase-in
14 period is too lengthy. Let me give you an example.

15 I currently represent the school bus drivers
16 that drive out of Tenino. They're employed by Laidlaw
17 Transportation. Four out of 20 drivers currently have
18 injuries into the arm or shoulder from pulling the
19 mechanical door closure on a school bus. This can be
20 remedied simply by installing an electric door closure for
21 a few hundred dollars. This particular employer has
22 refused to make such an installation change. It should
23 not take an extended period for this employer to come into
24 compliance with a reasonable standard by which people
25 would not injure themselves.

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1 I think that -- I appreciate the employers who
2 showed up. And obviously a number of these employers that
3 have testified today are good employers. It's unfortunate
4 you can't compel the bad employers to show up and explain
5 why they're still allowing employees to be injured on the
6 job when it's unnecessary.

7 Thank you for your time.

8 MR. SPENCER: Thank you. Let's take about
9 five minutes, and come on back at 3:27.

10 (Short recess.)

11 MR. JOHNSTON: My name is Gary Johnston,
12 G-A-R-Y J-O-H-N-S-T-O-N. By profession, I am a business
13 agent for Teamsters -- general Teamsters Local 378. We
14 have jurisdiction in Thurston and Mason counties, and
15 represent a wide spectrum of workers, everyone from your
16 traditional freight truckdrivers to office clerical.

17 I want to go on record as saying we are in
18 support of the adoption of these rules. And I want to
19 thank the department for coming up with certainly
20 reasonable rules that every employer in this state should
21 be able to live with. We applaud the current good
22 employers that are already working toward these
23 standards.

24 But on a personal note, my testimony today, I'd
25 like to talk -- just give you a little information. I am

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1 a former injured worker. I formerly worked for a large
2 multibillion dollar corporation, whose primary industry
3 was the production, distribution, and delivery of colored
4 water, also known as soda pop.

5 Now, on the delivery end of this business, it
6 incorporated large trucks with side roll-up doors. I was
7 assigned to a truck for a number of years that several of
8 the doors had rollers either missing or defective rollers,
9 such that some of the doors were very hard to lift up, and
10 very hard to close. The employer refused to have these
11 doors fixed. One door in particular, and whenever
12 possible, for obvious reasons, we tried not to put much
13 product in that door. But nonetheless, these doors were
14 raised and lowered several hundred times a day. One door
15 in particular, I would physically have to hang off the
16 door in order to close the door. I suffered repeated
17 injuries, and was told they couldn't do anything about
18 it. The reason they couldn't do anything about it is
19 there was no standards in place at the time. And the
20 bottom line is they didn't have to do anything about it.
21 And they chose not to.

22 Hopefully with the adoption of these proposed
23 rules, it will change situations like that. Thank you
24 very much.

25 MR. SPENCER: Thank you.

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1 MR. SYMONS: My name is Arthur Symons,
2 Jr. , S-Y-M-O-N-S. I'm testifying in opposition to these
3 rules. We're a small food processing company. Ten cents
4 a day for each employee is a factor to us. It means
5 something to small business. We are having a tough time
6 keeping up with all the rules and regulations as it is
7 because we don't have the people to do that. On this
8 particular rule, a major Washington grocery chain was
9 required by L&I inspectors to revamp and remodel its check
10 stands to prevent carpal tunnel injuries to checkers. The
11 chain spent millions of dollars to comply with a
12 citation. And what was the result? Nothing.

13 My concern is that the rules are capricious, and
14 have been -- are being adopted before scientific studies
15 have been done. And that's confirmed by the fact that the
16 federal government has not set any rules yet. And we are
17 concerned that having two sets of rules, federal
18 government and state government, is a problem for us.

19 In looking at your proposed rules here, I see
20 for eight key elements, the number two item was,
21 "Employers with 'caution zone jobs' must ensure" -- "must
22 ensure that employees working in or supervising these
23 jobs, receive ergonomics awareness education." We have
24 employees that come and go in a seasonal business. To
25 have all the employees aware of that is an additional

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1 burden to us.

2 In the third item here, you have, "If jobs have
3 WMSDs hazards the employer must reduce exposures below
4 hazardous levels or to the degree feasible." Well, we
5 don't know what the hazardous levels are because we
6 haven't done it -- you haven't done it scientifically.

7 Item five, "Employers must provide for and
8 encourage employee participation in activities required by
9 the rule." Well, the rule has not been scientifically
10 done yet, so it would be hard to -- "must provide" is not
11 fair.

12 Again, employees are our most important asset
13 that we have. Safety is the number one concern that we
14 have at Symons Frozen Foods. And we want to have a safe
15 environment. We want you to help us to have a safe
16 environment. We appreciate your concern for worker
17 safety. And we want to do that. We do not think that
18 these rules are going in that way because they're rules.
19 They're not actions that we need -- that are given. And
20 we'd like to see you do more scientific work on those
21 before you adopt the rules.

22 Thank you.

23 MR. SPENCER: Thank you.

24 MR. QUEBEDEAUX: Thank you. I'm Donovan
25 Quebedeaux with BIAW. That's Q-U-E-B-E-D-E-A-U-X. I'm

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1 with the Building Industry Association of Washington.

2 I would like to start out by saying the
3 Department of Labor and Industries is aware that BIAW is
4 strongly opposed to the WISHA ergonomics standard --

5 THE REPORTER: You'll have to speak up a
6 bit.

7 MR. QUEBEDEAUX: Let me try another mike.

8 Saying that I feel it is necessary to point out
9 that the head of federal OSHA pointed out in a press
10 conference last year -- he stated that he is not in favor
11 of other states developing their own ergo standard. In
12 his words, "This would create a patchwork of ergo rules
13 across the nation."

14 The proposed federal rule has been released for
15 some time now. Once the federal rule is final, Washington
16 will have to implement the OSHA rule to be at least as
17 effective as.

18 The cost of implementing the Washington ergo
19 rule would be overwhelming to smaller businesses, not to
20 mention the additional costs incurred by making the
21 necessary changes once the federal OSHA rule has been
22 absorbed into Washington.

23 Currently, federal OSHA has exempted
24 construction from their proposed ergo rule. As we all
25 know, this means that a special industry specific rule is

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1 being created for the construction industry.

2 There was a special request made by the CAC, the
3 Construction Advisory Committee, to develop a special
4 Washington ergo rule just for construction, as with OSHA.
5 Judging from the proposed WISHA ergo rule, this has
6 obviously been ignored.

7 That's all I have to say. Thank you.

8 MR. SELLS: Thank you. My name is Jim
9 Sells. I represent the Washington Refuse and Recycling
10 Association, which is a trade association representing
11 virtually all of the solid waste haulers and disposers in
12 the state of Washington. Our members range from what are
13 truly mom and pop operations, with pop on the truck, and
14 mom in the office, and all the kids doing something else,
15 to some of the largest corporations in the world who
16 operate not only around the country, but in other parts of
17 the world, as well.

18 But just to start out, if any of this sounds
19 confrontational, as we've listened to today, I think we,
20 at least, regret that. The unions, the state, the
21 employers are all working towards the same goal, and
22 that's worker safety. Worker safety is not only what's
23 right, it's good business. We lose money when a worker is
24 injured. The worker loses money. He loses confidence in
25 his employer. And we simply do not want to have that

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1 happen.

2 Whether or not these rules address that
3 appropriately at this point, we're not really sure, but we
4 suspect they don't.

5 A couple of comments for the department to
6 consider concerning solid waste itself. Solid waste is
7 one of the many industries that do not have a fixed work
8 station. Our employees are on a truck. They're in the
9 office. They're at a landfill operating heavy equipment.
10 They operate machinery. They work on what we call pick
11 lines at recycling centers, and so on. They also work in
12 a variety of environmental conditions. Some are inside,
13 some are outside. As you know, your garbage gets picked
14 up whether it rains, snow, sleet or hail. It gets picked
15 up on holidays.

16 And we think that this is important to
17 recognize, that you cannot put the same standards to a
18 industry that has that diversity that you can with an
19 industry that simply may have one manufacturing plant, or
20 a series of manufacturing plants, with just clerical
21 workers and people on an assembly line. It's an entirely
22 different situation than someone who is out tossing a
23 garbage can into the back of a rear loader. And also to
24 someone who's operating an automated garbage system, of
25 which approximately ten percent of the state has done.

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1 OSHA has deferred compliance on some of these
2 types of industries until pilot studies are done,
3 specifically agriculture, maritime, and construction. We
4 would urge L&I to do the same for our industry, for the
5 solid waste industry. We think that many of these
6 industries, and I think there's probably more than the
7 ones I have named, deserve to have specific status,
8 specific pilot studies, and more input from the industry
9 and from the workers in that industry before any types of
10 rules are adopted.

11 A couple of other comments. I guess one of the
12 things that we've wondered is what's wrong with OSHA. Why
13 is the State of Washington duplicating exactly what OSHA
14 is doing when we don't even know what the final product
15 from OSHA is going to be, nor do we know if the final
16 product from this rule-making is going to be approved by
17 OSHA? It doesn't go into effect until OSHA approves it.
18 And it very well could happen that everything we've done
19 here, all the hard work from everybody involved, including
20 the department, it could go for naught if OSHA doesn't
21 approve these rules. This is a burden, as several other
22 speakers have said, on companies that operate in
23 multistates, as many of our members do.

24 We strongly recommend that each industry, or
25 each type of industry, have a separate pilot program, and

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1 separate technical assistance. Maybe not all the
2 industries will need that. But most of them will.
3 Particularly the ones with diversified workplaces and
4 environmental factors.

5 A couple of thoughts to leave you with. Cost
6 does count. It counts to the big multibillion dollar
7 corporations we've heard about, and it costs the garbage
8 companies with three or four employees where the owners
9 are driving the truck and sending out the bills from the
10 office.

11 Finally, we do care. It's a hackneyed phrase.
12 Everybody says it. We really mean it. We do care about
13 our employees. We highly value their health and their
14 safety. It's what's right. It's good business.

15 Conversely, we believe that our employees value
16 their relationship with us. They value their good jobs,
17 they value their good pay, and they value their benefits.
18 We can work together. And we can make it safer. There's
19 no question about that.

20 To the department, I say, work with us, and
21 we'll work with you.

22 Thank you very much.

23 MR. SPENCER: Thank you.

24 MR. CLAYBURG: My name is Chad Clayburg,
25 C-L-A-Y-B-U-R-G. I'm the elected hourly safety co-chair

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1 at Reynolds Metals Longview, member of the Local 305 Steel
2 Workers.

3 Although voluntary efforts are good, we still
4 need laws like this to help protect laborers.

5 That's all I've got to say. Thank you.

6 MR. SPENCER: Thank you.

7 MR. NEUNEKER: My name is Ray, R-A-Y,
8 Neuneker, N-E-U-N-E-K-E-R. I represent Local 305 union,
9 Longview. I work for Reynolds Metals Company. I have for
10 almost 28 years.

11 They started an ergonomics program here a while
12 back, only under the force of OSHA or WISHA, whatever gave
13 them the insight. A lot of the people, I believe, up here
14 testifying haven't done a good hard day's job work down in
15 the aluminum industry where you don't only have repetitive
16 motion, you have heat factor. Where it's like 80 degrees
17 out here, you're working in 120 degrees there. So it
18 renders you out pretty good. You do a good job, get your
19 job done. The company comes around and says, "Oh. Geez.
20 You got done in three hours. Boy. We can give you a
21 little bit more to do now." Your body can only store so
22 much energy under the work load that goes on down there.
23 I'd advise anybody that wanted to, come down there and try
24 to do it, and really find out that we do need this program
25 that's coming from L&I.

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1 Thank you.

2 MR. SPENCER: Thank you.

3 MS. SAVAGE: My name is Marilyn Savage,
4 M-A-R-I-L-Y-N S-A-V-A-G-E. I'm an RN, and President of
5 the United Staff Nurses Union Local 141 of the UFCW. The
6 local represents approximately 3,500 nurses across the
7 state of Washington in rural and urban hospitals, clinics,
8 and long-term care. I speak in support of the ergonomic
9 rule.

10 In order to prepare for this hearing, the Local
11 requested OSHA logs from the 22 facilities in which we
12 represent nurses. Out of the 22, 15 hospitals responded.

13 From January 1995 to December of 1999, there
14 were approximately 1,700 back, shoulder, wrist, neck, knee
15 sprain, strains, and injuries from those people in those
16 facilities, not just nurses. This is a huge impact on
17 lost work days, economic loss, time loss, and in some
18 cases, loss of a career.

19 An example of a nurse in our local who had a
20 back injury from lifting, she was unable to sit. She
21 either had to stand or lie down. She stood to eat her
22 lunch. She stood to do all her care. And when she went
23 home, she had to lay down. This caused her finally to
24 leave the profession.

25 In another instance, we have had whole units

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1 that have had musculoskeletal injuries such as shoulder
2 injuries, and in one case, a doctor compared it to a
3 football injury. Nursing is not a contact sport. We
4 shouldn't have football injuries.

5 These injuries -- the injury for the shoulder
6 was caused because the lifting was eliminated in this
7 particular hospital, and the nurse was having to lift more
8 than she was able to.

9 With the review of the rule, I want to express
10 some concerns on the criteria of the caution zone for jobs
11 that health care workers -- or health care employees will
12 not rate nursing with the physical risk factors because
13 most tasks are not performed with a duration of two to
14 four hours per day.

15 I also want to recommend that the implementation
16 is quicker. I think the delay will cause us more injuries
17 in the industry.

18 It is important that there is a full
19 investigation of each nurse's job finding engineering
20 controls, and providing ongoing education to decrease the
21 injuries. This is a critical time during nursing. We are
22 in a shortage now. We cannot afford to lose more nurses
23 to more injuries that could be prevented. We have to
24 protect the nurses currently, and those in the future.

25 Thank you very much.

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1 MR. SPENCER: Thank you.

2 MR. DANZER: My name is Ed Danzer. I'm the
3 sole proprietor of Danzco in Tenino, Washington. We're a
4 machine welding shop.

5 We have tried for several years to implement
6 good ergonomic techniques, partially because it's hard for
7 me to hire qualified employees. We do a very diverse type
8 of product line, meaning our people have to have above
9 average skills.

10 My concern with the ergonomic regulations, one,
11 I think it's premature because OSHA's requirements will be
12 enforced upon all employers in the state of Washington, if
13 they choose to. If you have a Washington regulation that
14 does not meet the basic requirements of OSHA, and they
15 come out, you can be fined by OSHA just as easily as
16 WISHA.

17 The department has, in my opinion, an extremely
18 poor record of doing any kind of scientific data
19 collection, or for that matter, even thinking about that.
20 We have gone through a variance process to try and
21 eliminate a risk problem. The department had a person
22 give testimony that a grinding wheel, when it breaks, is
23 more dangerous than a 45, that a one-eighth steel plate
24 guard is a better guard than a bulletproof vest. Because
25 our solution to the ergonomic problem was give the guy

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1 something similar to a bulletproof vest so that he doesn't
2 have to use a tool in a position that creates back
3 problems. So what we've said is we're going to absolutely
4 not use the guards. I will take the chance of going to
5 jail before I will have my people suffer ergonomic harm.
6 Because I have one employee that has since been dismissed
7 who is on Labor and Industries partially because of trying
8 to utilize methods that are, in fact, mandated by the
9 state of Washington.

10 In order to clarify some of the problems some of
11 the other people have addressed, I believe the department
12 needs to have a rental program for data collection
13 equipment so that we can identify what these actual
14 problems are.

15 To go one step further, to help keep employers
16 from suffering from the deadbeats who go out and hurt
17 themselves riding motorcycle, come to work, and cause a
18 claim. We had one of those, too. A guy crashed his
19 motorcycle, made it to work long enough to get a Labor and
20 Industries claim. While he was on Labor and Industries,
21 he was out riding his motorcycle. It was a good deal for
22 us. It cost us several thousand dollars. We need to have
23 a wearable monitoring device that will determine if the
24 injuries were created at work or off work. I personally
25 have never been hurt working, but I sure have playing.

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1 The 10 cents a day compliance cost for the
2 average employee amounts to \$220 a year. The only
3 possible option we have in the grinding situation would
4 cost a minimum of \$2,000 a month. We sure as hell lost
5 our ass on that. We can't even implement that.

6 When safety equipment causes ergonomic problems,
7 the department needs to aggressively change safety
8 requirements to accommodate both the ergonomic and safety
9 issues based off of actual data. Let's not take one guy's
10 opinion, because when we -- we've gone through a very
11 intense hearing process. We're currently in the Court of
12 Appeals. During this time, the Department of Labor and
13 Industries has been unable to supply us any data relating
14 to what these injuries are. They can't give us a name of
15 a person who has ever been injured by a grinding wheel
16 breaking.

17 These requirements need to be scientifically and
18 statistically driven. If they are not, it's going to cost
19 everybody jobs, ultimately. The example is the lady who's
20 taking the transcripts right now, I believe has exceeded
21 her two hours of highly repetitive motion. In most
22 industries, if it's not a government job, she would be
23 sent home with two hours of work for the day. She can't
24 survive on two hours a day worth of work. There are
25 probably other ways to resolve these problems, but they

1 have to be done maybe using technology as opposed to
2 implementing regulations that will ultimately reduce the
3 number of employees and raise the cost of everything that
4 people purchase.

5 The other thing that needs to happen is the
6 rules need to be modified or eliminated if one, the cost
7 savings are not met, or if the costs of compliance exceeds
8 the estimates. That way, all parties are held
9 accountable. I personally don't have a problem being
10 accountable for my actions, but I sure would love to see a
11 governmental agency at least a little bit accountable for
12 making sure that they live up to the data and statistics
13 that they want us forced to, because I believe if my feet
14 should be held to the fire, the department, and all of
15 their employers should be held to the same degree. Maybe
16 they only should lose their job as opposed to losing
17 everything they've ever worked for, but they still should
18 be somewhat liable.

19 The other thing for all of those here that have
20 complained about the people they work for. I always
21 believe that when you go to work, you do not have to do
22 any job. You were looking for a job when you took that
23 one. If the person you are working for is a jerk or asked
24 you to do something wrong, or that is dangerous, you are
25 doing yourself a damn disservice to do that for that

1 person irregardless of what your consequences are because
2 you are making yourself worth nothing to yourself.

3 So, you know, I want to make sure that people
4 accept some responsibilities for the jobs that they take,
5 and the actions that they do, because if nobody will do
6 those jobs, the employer will, in fact, have to change
7 their techniques and tactics.

8 Thank you for your time.

9 MR. SPENCER: Thank you.

10 MS. FORD: I'll start. Donna Granger had
11 to go to another meeting, so I'd like to give her
12 testimony. Her name was Donna Granger. She's the
13 comptroller for Washington Health Care Association.

14 Washington Health Care represents over 300
15 nursing home and residential care facilities in
16 Washington. We've had a group retro program since 1986,
17 returning over 32 percent return of our premium. We've
18 had premium decreases for six straight years, totaling
19 over 44 percent. Our average experience factor decreased
20 for the last five years, averaging .8559.

21 Washington Health Care Association is opposed to
22 the proposed ergonomic rules. We've made significant
23 improvements as an industry in reducing MSDs voluntarily.
24 Now we will be busy complying with ineffectual
25 requirements of the proposed rules instead of taking care

1 of our employees' needs to remain safe.

2 We're hoping that -- we continue to develop
3 cooperative not mandatory programs with the Department of
4 L&I. Our industry has been proactive in reducing back
5 injuries. According to a study by L&I this fall on
6 nursing homes, there has been a 37 percent decrease in the
7 severity rate from 95 to 97 for back claims, with a 35
8 percent decrease in musculoskeletal claims for the same
9 three years. This was all done on a voluntary basis by
10 our members.

11 Washington Health Care Association's zero lift
12 program was started in July 1996 by offering rebates to
13 retro members' facilities who purchased resident transfer
14 equipment. Washington Health Care has given out rebates
15 totaling over \$82,000 since 1996.

16 In 1998, Washington Health Care produced the
17 "Getting To Zero" video for nursing homes and assisted
18 living facilities that is marketed nationally, and has
19 been distributed to over 225 nursing homes and assisted
20 living facilities in Washington state.

21 The Department of L&I needs to develop more
22 cooperative pilot programs. We applaud L&I for working
23 with our providers to reduce injuries with the nursing
24 home initiative program. I want to thank Barbara
25 Silverstein, Diane Doherty, and Kathleen Rockefeller from

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1 L&I for their help.

2 It's been a slap in the face to nursing homes
3 who have been proactive in creating the zero lift and
4 working cooperatively with L&I to effect changes in our
5 workplace. Nursing homes first -- sorry. I'm trying to
6 read someone else's notes.

7 Since June 1999, Washington Health Care nursing
8 facilities cooperated with L&I in the zero lift program in
9 seven counties where L&I provided premium discounts which
10 funded transfer equipment and training for facilities,
11 seven counties, 35 facilities, and \$505,000 in premium
12 discounts. The key is L&I was willing to fund the
13 program. An average cost of transfer equipment is \$5,000
14 each, and cost to the building was between 15,000 to
15 \$30,000 for each facility.

16 L&I spent months evaluating resident transfer
17 equipment, and produced two booklets which were
18 distributed to every nursing home in the state. They
19 initiated a job modification program in King County
20 educating physicians, vocational counselors, and
21 therapists on how job modification works, and how to get
22 necessary equipment for our injured workers. But the zero
23 lift pilot is very different from many requirements of
24 this ergonomic rule. I wonder if it will accomplish any
25 more than we have done voluntarily and with the

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1 department.

2 L&I needs to develop more industry-specific
3 programs to assist employers in reducing injuries, and be
4 willing to assist in the cost.

5 Long-term care providers cannot comply with more
6 regulation unless the state is going to fund the cost.

7 Over 70 percent of the residents we care for in nursing
8 homes are Medicaid. The agency who provides Medicaid
9 funding has stated that they will not fund these costs.

10 And I have a letter from them that I'll give to you. Our
11 facilities are heavily funded by Medicare and Medicaid.

12 Long-term care providers cannot support any regulation
13 that its largest payer, the state of Washington, is
14 unwilling to fund. Nursing homes are in financial stress
15 with Medicare and Medicaid cuts in recent years. Over 50
16 facilities have declared bankruptcy or closed in the last
17 two years. We cannot absorb any more costly regulations.

18 In conclusion, please do -- we support the
19 voluntary cooperative programs with businesses and L&I,
20 such as the nursing home initiative where L&I was willing
21 to fund part of the cost of the study. And they found out
22 what works best, the best practice program. Long-term
23 care providers cannot comply with more regulations unless
24 our largest payer, Washington State, is willing to fund
25 these costs.

1 Then I would like to talk myself. My name is
2 Lynn Ford. And I'm the Administrator of Liberty Country
3 Place in Centralia, Washington. I've been an
4 administrator for ten years. Prior to that, I was a
5 nursing home -- I was a nursing assistant.

6 I want to talk about the ergonomics rule. I
7 oppose these, because I have -- we've worked with the
8 cooperative program with L&I, in the zero lift group, and
9 I've really felt that they -- that was a positive
10 interaction. We had -- our facility actually tested the
11 equipment that came -- L&I came down to the building once
12 a week. We worked with our therapy staff and their
13 therapists to develop some safe lifting practices that we
14 could use. That pamphlet went out to everyone in the
15 state, so if you were a nursing home looking for lift
16 equipment, you could refer to that pamphlet.

17 In addition, our facility actually received
18 \$28,000. We received that in August. We were able to
19 purchase lift equipment, which we did. And we now have, I
20 think, three sit-to-stands and several other kinds of lift
21 equipment. Those are pieces that actually went to that
22 nursing assistant who was doing the lifting. We have a
23 zero lift facility, which means that when we transfer a
24 resident, instead of having them be a one person or a two
25 person, we actually use a mechanical lift. We're very

1 proud of our program. Since the last -- I think it's been
2 about 18 months, we've not had an injury that has caused
3 a -- that's caused time away from work.

4 We have an active safety committee. I'm a
5 member of the Washington Group Retro Committee. And I
6 started that -- I voluntarily joined that committee
7 because three years ago, our time loss program, we had
8 some real problems. Mike Kinman who's our provider came
9 down to the facility, helped work with us. It's taken us
10 a year and a half to get back on track. And then the last
11 year and a half, we've had an excellent safety record, and
12 we're very proud of that.

13 When I reviewed the rules that you have here,
14 and I looked at this, just as an employer, I looked at
15 this job analysis, and what we should do for the heavy
16 lift. And I looked at -- in my estimation, it looked to
17 me like we would be considered a caution zone job. All
18 the jobs in my building would be considered that. In my
19 interpretation of this, I'm not sure if I'm reading it
20 correctly, but the way I read it, every job in the
21 building would be a caution zone job.

22 I'm thinking that I would then have to have
23 someone who was an ergonomic specialist who would do the
24 job analysis and taking that form for every employee that
25 came through, and actually using to see whether or not

1 they -- you know, how that lift -- how that job worked
2 with them. I would have to have that person working with
3 them. I have orientation every week. We have a high
4 turnover. We've tried everything we possibly can to stop
5 our turnover, but for a variety of reasons, some -- most,
6 I think, are out of our control, but we still have that
7 turnover. So we would have to, I think, have a
8 40-hour-week person doing nothing but working with these
9 employees and ongoing education in the ergonomics. I do
10 not have anyone in staff that could do that.

11 I do have a physical therapist that every
12 resident that comes to the building, she assesses for
13 their lifting needs to make sure. We also educate the
14 staff. We do -- we have care plans. We post what kinds
15 of lift that resident is supposed to have. Our biggest
16 issue has been not that we don't do the training and we
17 have all these things in place, but when the nursing
18 assistant goes into the room, and even though they're a
19 two-person transfer, they decide that day that they don't
20 want to go down and get someone else, that they do it by
21 themselves, and then there's an injury. And I'm not sure
22 how we can prevent that.

23 When I look at -- you also have in here that we
24 must reduce the hazard. Well, when I look at where the
25 hazard is, I guess in my facility, and in interpreting

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1 that, the hazard or where the zone is is my resident.
2 Now, am I going to eliminate my resident? I don't have a
3 choice. I can't -- I don't see robotics coming in and
4 taking care of a 99-year-old man. I don't think that's
5 feasible. I don't see that, you know, I can have a
6 conveyor belt with these residents coming through. I
7 mean, that doesn't -- I don't see how that's going to work
8 for us. And some of the comments where people have talked
9 about doing some pilot projects, I would really encourage
10 you do that with the long-term care industry. I know our
11 facility, we would volunteer to do that again. We're just
12 20 minutes down the road. And it was a very positive
13 program when we worked with L&I before.

14 I also am concerned about the letter that we
15 received from the state saying that they would not help us
16 pay for any of these -- this additional person that I'm
17 thinking we would have to hire. 68 percent of my
18 residents are funded by Medicaid. And they're saying that
19 they're not going to translate -- they're not going to
20 give us any more additional monies for this. I just --
21 I'm really concerned about what's going to happen, and for
22 all of us. Who's going to take care of these residents,
23 because our costs continue to go up, and there's not
24 enough funding. We look at the 695 being passed, and the
25 taxpayers saying they don't want to fund these kinds of

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1 programs. So I'm very concerned with that.

2 I guess the other issue is I want to give a
3 little elder story. I had a --

4 MR. SPENCER: I'm going to ask you to
5 summarize, in fairness to all the people that are here.

6 MS. FORD: I guess in summary, I have a --
7 I'm mandated. I have several rules with this -- I had a
8 resident who had to -- who was going -- we needed to do a
9 transfer. He was -- he went from a two-person transfer to
10 needing a Hoyer lift. He did not want to have that Hoyer
11 lift. It scared him. So we met with him. We had a
12 family conference. We had the Ombudsman involved. We had
13 everyone involved. Even though he decided he did not want
14 to -- he still felt nervous about the Hoyer lift, we went
15 ahead with the -- and put him on the Hoyer lift.

16 The state surveyors came in. And I actually
17 ended up getting a citation because that was a violation
18 of resident rights. So I'm not just -- I just don't have
19 L&I, and I'm constantly looking at my employees. I also
20 have DSHS and the state coming in. And I see this
21 conflicting about where you're going to be with residents
22 and with the staff.

23 So I guess in summary, we're just hoping that
24 you look at some more pilot projects, and doing that.

25 Thank you.

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1 MR. SPENCER: Thank you.

2 MR. KINNEMAN: My name is Mike Kinneman. I
3 work for the James Groves company. I'm a loss control
4 specialist. And I work with Washington Health Care
5 Association along with Nor-ALFA, which is the assisted
6 living association. And I have a unique opportunity,
7 because I am in all of these buildings throughout
8 Washington to see how the training is going, to assist in
9 the training. And it gives me an opportunity to view what
10 successes these facilities are having.

11 With as much training and effort that the
12 facilities are putting in, we will never be able to
13 eliminate the injuries. The only way we're going to be
14 able to eliminate the injuries is take the risk factor
15 away. And I don't see that happening.

16 But with the pilot program that the State of
17 Washington has implemented, and I want to applaud them
18 also for their forethought in this, the program is working
19 very well. We have 29 facilities in this program. And I
20 had an opportunity, also, to work with these facilities.
21 We're seeing great successes, not only in those
22 facilities, but other facilities that have drastically
23 reduced the work-related injuries and cumulative trauma
24 disorders for some of the buildings that have had some of
25 the highest mod rates in the State of Washington.

1 We had a gentleman up here commenting on the
2 pilot programs for their industries, also. I also have
3 experience in the construction industry, and other
4 industries that I can see the pilot program being very
5 beneficial. And I would like to see this pursued instead
6 of being mandated through this ergonomic rule.

7 Thank you for your time.

8 MR. SPENCER: Thank you.

9 MR. GROVES: My name is Jim Groves,
10 G-R-O-V-E-S. I have more than 38 years experience as a
11 professional safety person. I'm a registered safety
12 professional, certified safety professional. I'm
13 representing not only our firm, but I'm here to support
14 the Washington Health Care Association and the Association
15 of Assisted Living folks, which we represent more than 450
16 employers in this state, plus an additional 150 employers
17 in other industries, which they've asked that I relate our
18 concerns in opposition to the ergonomic rule.

19 The purpose of the ergonomic rule is to
20 establish employers to prevent musculoskeletal injuries
21 that are driven by repetitive work practices. And at the
22 moment, I find that as a professional, subject to severe
23 question, and definitely premature. I've received -- or
24 have not seen any verifiable independent evidence
25 available that would support that the rule proposed would

1 reduce musculoskeletal injuries and save money.

2 The medical providers do not have the
3 kinesiology or the forensic expertise to causally relate
4 the diagnosed conditions to the workplace, or to identify
5 the contributing mechanism that has arisen naturally and
6 proximately out of the workplace. There is no consensus
7 data that has been presented which both medically and
8 scientifically establishes repetitive musculoskeletal
9 disorders that can be associated with work practice and
10 employee's predisposition to a repetitive injury.

11 As a professional, this is definitely a
12 frustration, because we do look towards consensus
13 standards and specified regulations -- or actually,
14 guidelines is probably a better term, and it can be within
15 a regulation, that can be relied upon that once
16 implemented, would generate a positive result and
17 reduction of an injury. In essence, I just -- at the
18 moment, I haven't found any evidence that would be
19 conclusive in this regard.

20 It's of special interest to me that our own
21 Congress has likewise indicated skepticism, presently,
22 with the statistical base. And in fact, asked the
23 National Academy of Sciences to continue the study in the
24 year 2001 in hopes of coming to bear with a consensus
25 study -- or a study that would provide us with a consensus

1 outcome, or standard base, that we could all follow and be
2 assured of that the money that's being spent is providing
3 us with the desired outcome that we hope to achieve here.
4 Especially the reduction of work injuries that would
5 result from repetitive activity and tasks.

6 Clearly, additional analysis really is necessary
7 to qualify these findings. And as a professional, I along
8 with folks that I've been associated with, have always
9 been strong advocates of ergonomics to reduce accident
10 injuries in the workplace. And I have not varied from
11 that in one sense.

12 In fact, we are the firm that in 1980,
13 introduced gait belts to the health care industry as the
14 first approach to begin reducing back injuries that
15 heretofore had never been in the industry, and today, when
16 you walk through a health care facility, you won't find an
17 employee on the floor without a gait belt on their person
18 in order to assist the residents in the facility to
19 minimize falls and strains and stresses on their own
20 back. And since then, we have continued to grow to having
21 implemented the zero lift program in this state. And
22 we're pleased that we're part of that association which
23 has taken the leadership nationally and demonstrating that
24 it can be done. The interesting part of all of this is it
25 was done voluntarily. There was no mandate. And there is

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1 great cooperation in the industry. And there is great
2 ideas surfacing from that in making the process even
3 better.

4 And I, too, wish to compliment the Department of
5 Labor and Industries, and Barbara Silverstein and her
6 crew. In all my experience in this state, and working
7 with the safety program and industry, this is the first
8 time that I've enjoyed a positive relationship and outcome
9 with the agency in addressing potential exposures that
10 could contribute to on-the-job injuries and illnesses.
11 But school is still out.

12 We still need to do additional studies. We
13 still need to do additional analysis. And I, too, for
14 one, would strengthen the advocacy for the pilot study
15 that the Washington Health Care Association currently is
16 participating in. This is a little different than a pilot
17 study that might be overbroad for an industry or the
18 entire state of Washington. This is for an industry
19 group, or an employer, per se. But the pilot study is
20 reaping great information as to how we can better prevent
21 these on-the-job injuries. And it's contributing to --
22 and aiding us to get the appropriate equipment and means
23 in the facilities to reduce these exposures.

24 So it's a strange situation for me in that -- in
25 being here today and talking about the ergonomics rule

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1 because I honestly find that the intentions are very, very
2 good of the department, and applaud ergonomics in the
3 industry to reduce accident injuries.

4 Unfortunately, as it's presented now, it's just
5 bad policy. And I think we've got some homework to do
6 before we implement something like this as a mandatory
7 requirement against employers in this state.

8 Thank you very much for the opportunity.

9 MR. SPENCER: Thank you.

10 MS. SNYDER: My name is Anna Lou Synder,
11 A-N-N-A L-O-U S-Y-N-D-E-R. I'm the human resources
12 manager for Lumberman's Building Centers.

13 We have a very strong safety program. And we
14 feel very strongly about employees working safely. But we
15 do have concerns about the proposed standard. We believe
16 that the standard will be difficult to enforce, be left
17 open to wide interpretation by compliance officers and
18 will increase administrative costs to the point that
19 employee reductions will be required to reduce overhead
20 expenses. I foresee an increased burden on the employer,
21 a probable decrease in net wages for all employees due to
22 the reduced working hours, and a competitive loss in the
23 world marketplace for Washington State as a result of this
24 standard, as written.

25 Problems with the wording. "Must be reduced."

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1 Change the lanaguage to reflect that attempts have been
2 made, even though the job may still be, and could always
3 be, a caution zone job.

4 "Degree of feasibility." The wording here will
5 most likley be left up to the courts to decide. Recommend
6 using something along the lines of "consistent with
7 industry best practices."

8 Widely accepted nationally recognized criteria.
9 There is none for construction nor for most businesses.
10 The rule is unfair to larger businesses. The multiple
11 employer work site rule, which will stand under the
12 ergonomics rule, will require large companies to assist
13 subcontractors to comply with the rule sooner than they
14 are required to by the rule. The economic impact of that
15 has not been addressed.

16 The timeliness time lines for compliance are out
17 of sequence. Change the rule to require analysis before
18 education. As it stands, we have to educate on problems
19 and issues that we have not analyzed.

20 There are no best practices. The rule is based
21 on applying best practices and developing best practices.
22 There is no assurance that those practices will be
23 developed. Make the Department of Labor and Industries
24 create their own pilot programs. Establish the best
25 practices, and then write the ergonomics rule based on the

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1 reduction in claims that result from their program.

2 L&I's cost estimates are way too low. There
3 will be a huge impact on businesses. L&I has only looked
4 at part of the costs. There are no allowances for capital
5 investments and equipment solutions, hiring more people to
6 reduce workloads, et cetera. A real world cost analysis
7 must be done before the cost benefit analysis can be
8 accurate.

9 Appendix B does not adequately allow for
10 compliance of the rule. Appendix B needs to be revised to
11 allow employers to better identify caution zone jobs. The
12 references given do not contain information for all
13 industries, and most are specific websites that are not
14 user-friendly to the layman.

15 Additionally, many business do not have access
16 to the Internet. There is no available resources for
17 construction, lumberyards, or trucking. We have been
18 unable to get information from vehicle manufacturers,
19 Kenworth and Volvo, and our insurance carrier, Parker,
20 Smith and Bee. They tell us there is data for office
21 workers, but not lumberyards or for the construction
22 industry.

23 The standard conflicts with the forklift
24 standard OSHA 29 CFR 1910.178(n)(4). "If the load being
25 carried obstructs forward view, the driver shall by

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1 required to travel with the load trailing. Doing so would
2 cause the operator to excessively twist," according to
3 Appendix B. There is no specific language on what to do
4 to prove compliance. Neither the standard nor Appendix B
5 provides tools to help employers comply. L&I should
6 include specific language to demonstrate methods that can
7 reduce hazards. The educational requirements are too
8 vague. Define the educational requirements better. I
9 suggest that you include as detailed information on
10 training as OSHA did on the forklift standards.

11 Employees are required to be aware of ergonomics
12 and the risks of their jobs. But employers are required
13 to identify each risk. The standard is not specific on
14 the detail of risk that must be trained. The standard is
15 not clear as who is included or excluded. This will
16 become an issue later, and should be addressed now.

17 If specific heavy equipment, including trucks,
18 is excluded from the vibration standards, then the
19 standards should note that. The standards should identify
20 what movements are exempt, as well as what equipment. For
21 example, twisting is not mentioned. Therefore, can we
22 assume that excessive twisting is okay? Truck vibration
23 is not mentioned, so is it exempt?

24 For some industries, it will be next to
25 impossible to gain compliance despite efforts. The

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1 standard does not recognize the varied work demands and
2 schedules of construction. The standard fits for
3 production line and office workers better. Include
4 specific data for construction activity so that we can
5 tailor work schedules within L&I guidelines.

6 The employers that choose to ignore the
7 standard, gain an economic advantage. Add to the standard
8 language that heavily penalizes those employers that
9 cannot document analysis, training, or other attempts to
10 comply with the standard. Make it a level playing field.

11 Some body shapes and sizes may not be able to do
12 certain jobs. Add to the standard language that
13 recognizes that certain body sizes and types cannot be
14 allowed to perform specific jobs due to their physical
15 size and stature. Prohibit them from tasks that due to
16 their physical size, cannot be changed to be performed out
17 of the caution zone.

18 Exempt employers with proven safe workplaces
19 based on experience factors. All employers with an
20 experience factor of .8 or less should be exempt from the
21 standard, because sound safety practices are already in
22 place according to L&I's own criteria.

23 Inflated experience factors. There will be a
24 spike in claims. Experience factors will rise as new
25 claims, due to the standard, are rated across previous

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1 employers, even though there were no signs or symptoms of
2 an ergonomic injury while the claimant worked for the
3 previous employer.

4 Thank you for your time.

5 MR. SPENCER: Thank you.

6 MR. JUSTIN: Good afternoon. Jim Justin,
7 J-U-S-T-I-N, with the Association of Washington Cities.

8 First, please, let me note that the Association
9 and our members are strong supporters for a safe
10 workplace. We have a number of our members who actually
11 allocate budget dollars annually to address ergonomic-type
12 issues.

13 Having said that, we are concerned with the
14 proposed regulations. Initiative 695 recently approved by
15 the voters is going to cost cities \$76 million in the year
16 2000. 107 million in the year 2001. These are ongoing
17 losses that cities experience.

18 In the year 2000, 35 million of those dollars
19 are specifically targeted for police and fire services.
20 In 2001, 49 million.

21 In light of these impacts, the Association is
22 asking for a moratorium on all state rules and legislation
23 that places a financial mandate on local governments. We
24 believe this rule imposes such a mandate.

25 As with others before you this afternoon, we

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1 support a pilot program that could define what works. We
2 encourage you to await the conclusion of OSHA's rule
3 process, and the specifics that they adopt as part of that
4 rule-making process.

5 We question the cost analysis prepared in
6 association with this rule. We think it's low. We're
7 trying to determine some specific figures now. And we
8 encourage you to fund a technical assistance or training
9 program for employers. We are particularly concerned with
10 our smaller cities that will not have the expertise to
11 define a caution zone job. And will have to contract out
12 for such services.

13 Finally, as you are aware, cities provide an
14 array of services; public works, maintenance, parks,
15 police, fire, administration, et cetera. I understand the
16 current proposed rule entails a phased-in period. We
17 would appreciate it if you would look at and discuss an
18 additional longer phase-in period for local governments so
19 we may grapple with the impacts of Initiative 695 before
20 we address any additional rules or regulations.

21 Thank you for your time.

22 MR. SPENCER: Thank you. Let's take five
23 minutes, and come back at 4:37.

24 (Short recess.)

25 MS. LOVE: My name is Gail Love, L-O-V-E.

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1 I work in the telecommunications field. I'm a
2 construction splicer for USWest, and have been for 22
3 years. I'm also a member of the Communication Workers of
4 America, Local 7810.

5 I'm here to speak in support of the rule. I
6 think it's past due. In my opinion, it doesn't go far
7 enough. I have, oh, probably 70 people in my work group
8 at the garage I work in. And through the years, we've all
9 experienced health problems due to back.

10 I personally have an L&I claim right now with my
11 hand. I have arthoarthrititis (phonetic) in the first
12 metacarpal joint. And that's something that will never go
13 away. I've had extreme tendinitis in my arm. When I
14 spoke to my supervisor and told him I was going to go to
15 the doctor about this issue, he said -- the first words
16 out of his mouth was, "You'll never be able to prove it's
17 work related." We have no ergonomics program with the
18 company. Nothing whatsoever. The only reason I have
19 recently gone to the doctor with my hand is through the
20 media, all the news and the talk about ergonomics, I
21 wanted to catch something in the early stages, and I was
22 very concerned with carpal tunnel and having surgery.

23 I've heard a lot of things said today about,
24 "Well, if you don't like the job, leave." You know, that
25 would probably have been fine, but I've been 22 years in

1 the field, and if somebody would have told me 22 years
2 ago, or when I started, that by holding your hand in a
3 certain way, by doing this motion, 7,200 times a day,
4 minimum, you're going to have -- could possibly lose the
5 ability to move a joint. You know, a thumb is something
6 that when you lose that, that's -- I mean, I can't even
7 open a jar anymore with that -- you know, pushing against
8 it.

9 The education part of this is what I think is so
10 extremely important, that they get the employees involved
11 with the company mandatory, because we are the ones that
12 are experiencing the problems. We're the ones out there
13 on a daily basis in awkward positions and doing motion
14 after motion continually. We're the ones who can tell
15 them how this can be done, how we can alleviate these
16 problems. Just a heads up to let us know that you are
17 possibly going to experience an injury down the road.
18 It's too late for me to do anything about -- as far as to
19 make it completely better.

20 USWest is a self-insured organization. We have
21 to fight them every bit of the way. I mean, they want to
22 close the claim on you right away. I mean, everything
23 that we have won through safety -- we deal with through
24 safety, we have had to fight for. It's not something
25 that -- if you work for an employer who is concerned about

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1 their employees, and are willing to implement these
2 programs, I applaud you. I mean, it's wonderful. I
3 don't.

4 We've had to fight for every issue, for every
5 safety issue, and continue to have to do that. That's
6 where I feel that these rules are just a step towards the
7 right direction to enforce things, to realize that the
8 health of the worker is not -- we are not a commodity that
9 is expendable, you'll find another one. Although some
10 employers feel that they can.

11 That's all I have. Thank you.

12 MR. SPENCER: Thank you.

13 MR. RAINEY: Yeah. My name is Karl Rainey,
14 K-A-R-L R-A-I-N-E-Y. I'm a heavy equipment operator,
15 Local 302, operating engineers. I've been such for 35
16 years. I've had shots in my wrist because my hands go to
17 sleep at night. And when I drive, they go to sleep. Now
18 my knees and hip joints have all got arthritis and -- from
19 the vibration and the pounding. The doctor tells me to be
20 retrained. I'm 55 years old. I don't want to work for \$7
21 an hour.

22 That's all I've got to say.

23 MR. SPENCER: Thank you.

24 MR. SARIN: My name is Leonard E. Sarin,
25 spelled S-A-R-I-N. I'm a member of Local 302. I've been

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1 in the union for 36 years. I was injured in 1992. Since
2 that time, I've had twelve operations. And I think
3 this -- the rules are long due in coming. And I think
4 they should be tougher.

5 You know, you listen to the contractors and the
6 business people, and they say, "Well, you know, we don't
7 need any more rules." And, you know, they forget that
8 when somebody is injured, you know, it not only affects
9 him, it affects his family. You know, I had a friend of
10 mine that was injured the same year that I was injured.
11 He worked every day of his life just like I did. I had
12 never missed a day of work. And he lost his family. His
13 son committed suicide. And he's living on the street
14 today all because of being injured on the job.

15 My injury was strictly due to the contractor not
16 playing by the rules. You know, you've got these
17 ergonomic rules that you're going to put in, but you need
18 to enforce them, you know. And you shouldn't wait until
19 people call you up to go out and check these companies for
20 what they're doing. You know, I've never seen anybody out
21 there from the state. And that's the shame of it, you
22 know. You're spending all this money on programs and all
23 that. And there's a lot of rules right now that are in
24 there that are not being enforced.

25 And in heavy construction, the number one, in my

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1 opinion, injury of operators is the seat. And I know
2 there's rules in there that say that you're supposed to
3 have a good seat, but define that. You know, there
4 shouldn't be a piece of equipment in Washington state that
5 is not an air ride seat, that it's the best possible
6 made. And you'll cut your back injuries phenomenally.
7 But that one rule of saying, "Hey. Look. You've got to
8 put a good seat." I don't care if that -- and I don't
9 mind running a piece of equipment if it's 1902 as long as
10 it's got a good seat. Because when you get a seat that is
11 not going to fit your body, you're in an awkward
12 position. You're getting pounded every day all the time.
13 And it wears on your body. And it benefits the
14 contractor. I mean, the money that it's cost that person
15 to pay for my claim, you know, would have bought how many
16 seats. You know, that's the sad part about it. You have
17 contractors that are not playing by the rules.

18 And anybody that's going to tell you that they
19 like being on L&I, or like being injured, that is not
20 true. I never was -- like I said, I never had been sick.
21 And, you know, I'm going to be in pain the rest of my
22 life. It's that simple. I've got to take pain pills
23 every day. And I was never used to that. And I've had to
24 readjust my whole life, you know. And, you know, it is
25 important. These rules are important. And I just can't

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1 say enough that -- you know, we need more inspectors out
2 there, and make these guys play by the rules.

3 In construction, if you have a person -- I was
4 injured because of one simple fact: The contractor did
5 not want to pay for a blade to blade that road. He wanted
6 to save a few dollars because, you know, that job was just
7 right on the line, you know. And not only myself, you
8 know, I've paid -- I'm going to pay for the rest of my
9 life for that. But when you stop and think what he did to
10 every other scraper's hand that was out there for four
11 months. Because these injuries -- repetitive strain
12 injuries, they build.

13 And if you get contractors year after year that
14 don't play by the rules, you know, somewhere down the
15 line, he's going to -- that person is going to be in front
16 of L&I with a back injury or a neck injury or a leg
17 injury. And, you know, I've seen them weld seats and make
18 a guy work. And you know what? If you say, "I don't want
19 to work," they say, "Well, there's the door," because they
20 know they can call the hall up, and the hall will send
21 somebody out because they have to by law. They don't
22 care, you know. The seats are the number one thing, if
23 you want to help back injuries.

24 And that's all I have to say. Thank you.

25 MR. SPENCER: Thank you.

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1 MR. ALEXANDER: My name is Grant Alexander,
2 G-R-A-N-T A-L-E-X-A-N-D-E-R. I'm a business
3 representative for the International Union of Operating
4 Engineers, Local 3202, Bothell, Washington. I'm also the
5 executive secretary for the Olympia Peninsula Building and
6 Construction Trades Council which covers Clallam,
7 Jefferson, Kitsap and Mason counties.

8 In that area, I'm here speaking on behalf of 27
9 supporting unions and a little over 3,000 employees. A
10 lot of this has been covered. The two fellow members that
11 spoke just a minute ago, covered a lot of it on a personal
12 basis.

13 The main thing I'd like to emphasize here is in
14 the construction industry, we have numerous contractors
15 who are sincerely concerned about these issues. And they
16 are willing to spend the money and the time to make the
17 necessary moves to support their employees. But as in
18 many things, there is a lot of employers who could care
19 less. And those people are the ones that we have to have
20 the rules and regulations and the enforcement to create a
21 level playing field so that business can compete fairly.

22 To move it into a personal situation, I'm a
23 heavy equipment mechanic by trade. Of the 35 years I've
24 been in the industry, 25 years was as that, the last ten
25 as a business agent. As a mechanic, I have sustained five

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1 spinal injuries. One elbow is gone, and two knees are not
2 far behind.

3 To give you some idea, I was working for a heavy
4 equipment company here in the area who is now out of
5 business, Howard Cooper Corporation. And finally after
6 they received enough claims for bad backs and stuff, they
7 took a look at buying hydraulic hoists for the back of the
8 service trucks to pick up the heavy items. It's a heavy
9 item, \$2,500 apiece, ten years ago. But they cut down on
10 the amount of musculoskeletal disorders of the claims that
11 were coming in.

12 And I can't say too much for that, but on
13 record, the operating engineers are in favor of this bill,
14 and so is the building trade.

15 Thank you very much.

16 MR. SPENCER: Thank you.

17 MS. CAMP: My name is Janice Camp,
18 C-A-M-P. I'm an industrial hygienist and occupational
19 health nurse and a lecturer in the Department of
20 Environmental Health at the University of Washington.
21 I've been in the health and safety field for over 20
22 years. I am also currently the President of the Pacific
23 Northwest Section of the American Industrial Hygiene
24 Association. Our local section of the AIHA has over 400
25 members, most of whom who work for industry health and

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1 safety consulting firms or local state or federal
2 agencies. The national AIHA and our local section both
3 support an open and fair process, such as this, to discuss
4 the available evidence on the need for an ergonomics
5 standard.

6 I am here today representing myself. However, I
7 would like to share some of the experiences that I have
8 had while I've been working at the University of
9 Washington.

10 In my capacity at the University of Washington,
11 I direct a group called the Field Research and Consultation
12 Group. The field group is a service group of the
13 Department of Environmental Health that provides health
14 and safety consultation to Washington state businesses.

15 The primary goal of our service work is to
16 provide assistance to companies in finding and fixing
17 workplace hazards. Our work also helps us give graduate
18 and undergraduate students experience and research
19 opportunities in the real world.

20 My first experiences with working with
21 work-related musculoskeletal problems came when I first
22 started working for the field group in the mid 1980s. One
23 of the first projects that I worked on was the study of
24 video display terminal workers. This study was mandated
25 by the Washington State legislature for the purpose of

1 determining if workplace conditions that were specific to
2 VDT operation were related to an increased frequency of
3 musculoskeletal and visual symptoms. We distributed
4 questionnaires to over a thousand VDT workers, and a team
5 of reseachers also observed about 20 percent of the
6 workers in the four companies that participated in this
7 study.

8 The basic conclusions from this study were, one,
9 workers who operated VDTs for four hours or more a day,
10 and did intense keying, were more likely to report
11 musculoskeletal injuries than workers who did intermittent
12 keying. And two, hand and arm symptoms were the most
13 common risk and injury reported by the word processing and
14 data entry workers.

15 The study was also supposed to determine whether
16 or not training made a difference in the frequency of
17 symptom reporting. Unfortunately, at that time, so few
18 companies offered training in musculoskeletal risk
19 reduction, that we could not answer that particular
20 question.

21 This study, published as a technical report in
22 1989, is an old study. There have been many more and
23 better studies conducted around the world since then, and
24 many here in the state of Washington. And I think there
25 is probably more that could be done. But I share this

1 experience for three reasons.

2 One, is to say that in the process of observing
3 workers engaged in their job tasks, we were struck by how
4 many simple low-cost, even no-cost solutions workers
5 invented. Unlike now, in the mid 1980s, there were few
6 ergonomically designed work stations, chairs, or keyboards
7 available on the market. But workers that we saw were
8 very creative in finding ways to reduce their risks. They
9 made wrist rests out of towels, foot rests out of boxes,
10 back rests out of pillows, and even glare-reducing items
11 for their screens out of silk scarfs. This taught me that
12 ergonomic solutions don't have to be expensive. And that
13 workers are often the best source of creative solutions to
14 work station design, and work task problems.

15 The last reason I share this experience with you
16 is to underline the fact that we have been studying the
17 problem with work-related musculoskeletal risks for at
18 least 15 years. Proposals to continue to study the
19 problem, or to conduct pilot programs, seem, to me, to
20 ignore the available evidence that work -- that ergonomic
21 problems do exist, and they can be remedied.

22 Since the mid 1980s, the field group has
23 continued to receive requests from employers for
24 assistance in evaluating musculoskeletal risks in their
25 companies. About ten percent of our service requests

1 involve ergonomic issues. More and more companies that we
2 visit are already working to reduce musculoskeletal risk
3 factors in their businesses.

4 As part of our services, we make
5 recommendations, and provide examples of solutions for
6 companies to consider when they work to find fixes to
7 their identified problems. We believe that many of the
8 recommendations that we have made to companies, and that
9 companies have implemented, have actually reduced
10 musculoskeletal injury, and have improved productivity.
11 Other groups have more clearly documented that ergonomic
12 programs are effective, and have reduced costs, and
13 improved productivity.

14 I have three articles with me from a recent
15 issue of the American Industrial Hygiene Association
16 Journal that present the findings of some of these
17 studies. There are even a -- there is even a web page
18 that allows anyone to calculate the return on investment
19 in -- investment in ergonomic interventions, including the
20 financial effects of training costs and productivity.

21 So why is a rule needed if companies are
22 recognizing that musculoskeletal injuries are costing them
23 in terms of lost time, lost productivity, and worker's
24 compensation claims? And those companies are already
25 addressing ergonomic problems. And why is a rule needed

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1 if it has been shown that ergonomic risk reduction can
2 actually improve productivity?

3 What we find in our work is that many times,
4 companies put off doing things that they know they should
5 do to improve the health and safety of their workers, and
6 even improve productivity until they really have to.
7 Other companies will even try to get out of doing what
8 they know they should do. I believe a carrot and a stick
9 approach is needed. Take traffic, for example. Some
10 people ignore their driver's training, the road signs, and
11 even their mother's recommendations to slow down. They
12 don't slow down and observe the speed limit until they see
13 the radar gun.

14 Some of the requests for service that the field
15 group receives come from companies that are under
16 abatement order from L&I. Only then are they interested
17 in fixing their problems.

18 I believe that WISHA should help companies
19 identify their musculoskeletal problems, and provide some
20 ideas about how to fix these problems.

21 And I also believe that the proposed standard
22 does provide some basic guidelines without being
23 prescriptive or rigid. There is flexibility in the
24 proposed rule.

25 The last reason I believe a rule is needed is

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1 that it will level the playing field. With the rule,
2 everyone will know what the expectations are, and what is
3 to be done to reduce hazards. In the rule, there are
4 basic guidelines to help companies decide whether or not
5 they have a job with potential problems. They don't
6 necessarily need to hire an expert.

7 In conclusion, I believe that there is plenty of
8 evidence that musculoskeletal risks are a health and
9 safety problem in Washington. And that there are cheap,
10 and even no-cost solutions to fixing those problems.
11 Despite the fact that companies are already addressing
12 musculoskeletal risks, I believe that these voluntary
13 efforts have not been sufficient. Regulation is needed to
14 maintain, if not increase the motivation to address these
15 very expensive and debilitating injuries. The proposed
16 rule is reasonable and fair, and is a common sense
17 approach.

18 The extended implementation time gives companies
19 ample time to review their jobs, if they haven't already
20 done so. And if they find problems, they have time to
21 prepare a solution.

22 I also believe that there are many sources of
23 free and fee-for-service assistance for companies who want
24 help in figuring out what their problems are.

25 Thanks.

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1 MR. SPENCER: Thank you.

2 MS. CAMP: Would you like me to submit
3 these articles for the record?

4 MR. SPENCER: Yes, we would. Thank you.

5 MS. MORRIS: My name is Sharon Morris,
6 M-O-R-R-I-S. I'm assistant chair of the Department of
7 Environmental Health for Community Outreach at the
8 University of Washington.

9 I'm here today to testify in support of the
10 ergonomics rule proposed by the Washington State
11 Department of Labor and Industries. It is well recognized
12 that work-related musculoskeletal disorders are a serious
13 problem representing nearly one-third of accepted
14 industrial insurance claims, and more than half of lost
15 workday claims in Washington. This has resulted in an
16 estimated \$350 million a year in direct costs in the
17 state.

18 As a supervisor, I can attest to the seriousness
19 of the problem even in the seemingly safe environment of
20 the university workplace. In my small office, I have had
21 five employees with serious wrist problems from working on
22 the computer, two of whom received worker's compensation.
23 These are dedicated employees who want only to be able to
24 do their job without suffering wrist and arm pain.

25 By using university and L&I consultants, and

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1 modifying workstations and computers, we have been able to
2 minimize the problems. I consider myself to be a
3 conscientious employer concerned for the welfare of my
4 employees, and have sought help in improving ergonomic
5 conditions in our office. I have also worked in the field
6 of occupational safety and health for nearly 30 years.
7 There are other employers out there who do not have the
8 knowledge, resources, or desire to solve their ergonomic
9 problems. The proposed rule will assist the conscientious
10 employer, and pressure the more recalcitrant ones into
11 working with their employees to identify and reduce these
12 hazards.

13 I support the department's focus on prevention
14 on finding and fixing hazards before an injury occurs. I
15 believe this prevention focus is superior to the
16 injury-based approach found in other standards, and is one
17 more example of Washington state's long history of
18 leadership and developing safety and health standards that
19 are even more effective than federal ones.

20 There are those who claim we don't have enough
21 evidence to develop an ergonomics standard, that more
22 research needs to be done. As an academic from a research
23 university, it would be hard for me to say that there
24 isn't need for more research. Of course more research can
25 and will be done. But we can't wait for all the research

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1 to be completed to take action. Several reputable
2 scientific bodies have reviewed the available literature,
3 and concluded there is sufficient evidence to demonstrate
4 the existence of work-related musculoskeletal disorders.

5 NIOSH says there is a substantial body of
6 credible epidemiologic research that provides strong
7 evidence of an association between musculoskeletal
8 disorders and certain work-related physical factors.

9 The National Academy of Science has said,
10 "There's compelling evidence from numerous studies that
11 if the amount of exposure to hazards is reduced, the
12 development of musculoskeletal disorders is reduced.
13 There are a variety of actions that can be taken in the
14 workplace to eliminate or reduce the risk of
15 musculoskeletal disorders."

16 Professor William Howe, Chair of the NAS
17 Committee on Human Factors has said, "Within this
18 discipline of ergonomics is some of the best work I've
19 ever seen. I'd put it up against the majority of the
20 sciences."

21 Those who claim that no action can be taken
22 until more research is done will likely never be satisfied
23 with the available scientific evidence. While this may be
24 a boon to researchers, it does an injustice to workers who
25 are unable to do their jobs today as a result of ergonomic

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1 hazards.

2 There are many examples of employers and
3 employees who have worked together to solve ergonomic
4 problems. Over the past ten years, some of them have
5 participated in the continuing education courses presented
6 by our department. They have come from many work
7 environments, including health care, pulp and paper mills,
8 offices, and construction work sites.

9 In September 1998, 300 people came to a
10 conference we held in Portland on best practices in
11 ergonomics. At this conference, employer and worker
12 groups were eager to show others how they had found
13 practical solutions to ergonomic problems, often
14 increasing productivity in the process.

15 In summary, I believe that work-related
16 musculoskeletal injuries are a serious and costly
17 problem. There is sufficient scientific evidence linking
18 such injuries to working conditions. There are solutions
19 currently available to solve many of these problems. And
20 a standard is necessary to assure that all employers take
21 seriously their responsibility to provide workplaces safe
22 from ergonomic hazards.

23 Thank you for the opportunity to present my
24 views on the proposed ergonomic standard.

25 MR. SPENCER: Thank you.

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1 MS. WOOD: My name is Jerri Wood. The
2 first name is spelled J-E-R-R-I, last name W-O-O-D. And
3 I'm with the Communication Workers of America, Local 7800,
4 out of Seattle. I'm the community services and
5 legislative chair. And my paid job, that supplies my
6 family with a sustenance, is I work for USWest as a
7 customer communications technician.

8 This subject is rather near and dear to my heart
9 because right now, I am suffering from a musculoskeletal
10 disorder -- or disease. And it's from -- I mean, as much
11 as people -- I've heard testimony today where people say
12 that your after-work hours or activities contribute to
13 your injury or illness. I find that very hard to
14 believe. In my case, and my doctor will substantiate it,
15 that there's not enough time once I get home after a 12-
16 or 14-hour day to do much else at home except go to bed.
17 And I have yet to find that going to bed and sleeping
18 causes this disorder.

19 It's about parity. This rule provides parity
20 for all employers and employees and the citizens of this
21 state. It makes a level playing field. You have good
22 employers that are willing to take proactive measures.
23 And then you have those that don't want to take any action
24 until someone is hurt, or until they're mandated either by
25 L&I or some other higher authority. At that time, it's

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1 too late. The injury's already been done. I mean, what
2 price tag do you put on a pain-free day? And who says
3 that you have tomorrow?

4 I don't know anyone in this room or in this
5 state that's guaranteed a tomorrow. And to say that
6 you're going to provide -- we can drag out this rule
7 process for another two or three years beyond the six
8 years that's already in the rule is ludicrous. How many
9 more people have to be hurt? How many more jobs have to
10 be eliminated because an employer feels that's their only
11 option is to eliminate a job?

12 I've heard people give testimony today that
13 said, "Well, if you didn't like your job, you could get up
14 and leave." Well, no, you can't. It's like -- leaving
15 your job sometimes, even if it's the most hazardous job,
16 could be equated to being a woman in a domestic violence
17 situation that can't leave home, because home provides her
18 a roof over her head, and income, food, and some sort of
19 stability. I mean, it may be bad stability, but it's
20 stability. And in some cases, even the most hazardous job
21 is providing you that roof over your head, sustenance for
22 your family, and some stability.

23 We've got to do something to make sure that
24 everybody has to play by the same level rules. If
25 everyone in this state had to have, and agreed to the

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1 ergonomic rules, then the costs would be equal for
2 everybody across the state. Everyone would have to pay
3 and play by those same standards. Everyone would have an
4 equal opportunity to have a good life at work, and a good
5 life after work.

6 Right now, when I go home, I have a third grader
7 that's trying to learn cursive writing, and I can't even
8 write a letter of upper case Ds without being in intense
9 pain. I'm not going to have that opportunity to teach my
10 third grader how to write cursive Ds again. I mean, it's
11 like -- you don't get to put your life on a rerun or an
12 instant replay. You don't get second chances. And this
13 is what this is all about.

14 Someone wants to say, "Well, Jerri. We'll give
15 you a second chance. We'll do this a little later. Or
16 we'll give you some prescription. Or we'll give you some
17 surgery. Or we'll give you some therapy." But wouldn't
18 it have been nice if we could have spent the 49.95 to get
19 an ergonomic keyboard and adjust my typing stand to where
20 it needed to be so that I wouldn't be in this position?
21 Or at least regulate the kind of activity that you're
22 going to do over the length of the day.

23 I've got 27 years with USWest. I've done a
24 variety of jobs. I service several members in my local.
25 We have 3,500 members in our local. And I have seen

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1 people that have had a variety of illnesses due to the
2 job.

3 There was one woman that they fired her because
4 she had a repetitive motion illness, an MSD. I mean, she
5 couldn't pull cable anymore. She was in constant pain to
6 where she couldn't grab. She couldn't even lift her
7 18-month-old son. So she goes home. She's trying to take
8 care of things. And they sent a private investigator out
9 to her home, and caught her picking up her son who had
10 fallen down, and they said, "Oh. You could have come to
11 work because you picked up your baby." Well, what is she
12 supposed to do? Let him stay on the ground?

13 I mean, you have things that you need to do at
14 work, you have things you need to do at work, and work
15 shouldn't prohibit or cause you so much pain that you
16 cannot take care of life outside the job. And that's what
17 these injuries do. They threaten the quality of your life
18 seven by 24, not just in a 40-hour work week, or a 48-hour
19 work week, but every hour of every day for the rest of
20 your life once you become affected.

21 So an ounce of prevention is a pound of cure.
22 And if that ounce of prevention costs -- I'm sure that the
23 cost there is going to be so much smaller than what the
24 ultimate cost is going to be, because I don't think that
25 you can put a price on pain-free living.

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1 Thank you very much for this opportunity.

2 MR. SPENCER: Thank you.

3 Is there anyone else out there who wishes to
4 testify on the proposed rules at this point? Come on up.

5 MR. SCOFIELD: Sam Scofield. I'm here --
6 I'm a controller for Klein Bicycle. We manufacture
7 aluminum-framed bicycles.

8 And it's been quite interesting to hear a
9 variety of comments and perspectives. I'm open-minded
10 about these rules at this point. I would agree that we
11 need to do something. The vagueness, and the lack of
12 knowledge in these areas is of some concern, as well as
13 knowing that it's difficult to determine what's really
14 causing these injuries. But they are real. So we can't
15 ignore them. But we need to move ahead. And I would just
16 hope that we use common sense as we proceed, and continue
17 to gain information, and hopefully a lot of sharing of
18 information between the various industries, and what is
19 applicable to us.

20 For instance, something that's very common
21 across many industries is you have office workers who have
22 keying -- heavy keying activity at an office desk looking
23 at a terminal. That seems like a perfect opportunity to
24 start, and have L&I evaluate that, and come up with some
25 general ways of looking at that. That you could put it on

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1 your website or distribute that we could look at and say,
2 "Okay. I've got a staff of only three office workers, so
3 I'm not going to be an expert in that, but I can learn,
4 because Weyerhaeuser has 50 and look what they did." Or,
5 "Here's how you position the chair," you know. I'm sure
6 there's a lot of simple things that can be done, and we
7 want to do those, but we don't have the knowledge.

8 There are other areas in our business in the
9 manufacturing that are going to be more complex. We'll
10 probably have to hire an expert to come in and look at
11 those, but we can't afford to hire an expert for the
12 office part, but we can gain from other people's
13 experiences. So I hope that's part of this, that you find
14 ways of sharing that information to the employers who want
15 to get things in order there.

16 I personally understand that simple things can
17 make a big difference. Three years ago, I went through a
18 car accident, and my upper back is real sensitive now to
19 my positioning. And I have worked with therapists, and so
20 forth. And I know that just raising your chair a few
21 inches and coming to a different angle, taking breaks,
22 there's a lot of things that can be done. But it's
23 important that we look at what can be done, and try to do
24 the things that are reasonable, and understand that there
25 may be not a perfect solution for everyone.

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1 For instance, one of the suggestions was put
2 your feet up on a leg rest for a while. Well, for me,
3 that didn't work, but for another office worker, I gave
4 her my stool when it didn't work for me, and it worked for
5 her. So not everyone is going to be the same. Our bodies
6 are different.

7 Another concern I have is the carry-over
8 effect. You know, obviously these are long-term
9 situations, in many cases. You don't get carpal tunnel in
10 a day or a week or a month. And a lot of these repetitive
11 injuries, by definition, are over a long period of time.
12 And as an employer, how do I recognize an employee coming
13 in who has a propensity towards injury in a particular
14 area? That's a concern of mine. How do I keep that new
15 employee safe, because I don't know their background? Is
16 there any provision for L&I to tell me that worker has had
17 a lot of exposure? You need to be careful, and not put
18 them on this type of activity. That's just a
19 brainstorming thought I had that would be a concern to
20 me. Obviously, there's the employee confidentiality
21 concerns there. You don't want to -- on the one hand, you
22 don't want to cause discrimination against employees, but
23 at the same time, how can we help them if we don't know
24 that they've already got 15 years of heavy keying? It may
25 not be apparent, or they may not tell us, or we may not

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1 know that what they did on this job, even though it was a
2 different job, is very similar in motion to what we're
3 going to have them do, and it will add up.

4 So that would be a concern of mine is how do we
5 help the workers. Is there a way to test a worker to see
6 if they're going to have a weakness in a particular area
7 that we shouldn't, you know, have them do lifting over 15
8 pounds because they're a 90-pound person versus, you know,
9 a 200-pound person? You know, 15 pounds is nothing to
10 them. How do we judge people based on their varying
11 physical characteristics in a way that we can match the
12 work to the person?

13 So sorry if I rambled, but those are my
14 thoughts. Thank you.

15 MR. SPENCER: Thank you.

16 MR. FRAMPTON: My name is Richard
17 Frampton. I represent Providence Physical Medicine in
18 Centralia, Washington. I've been in industrial
19 rehabilitation for twelve years.

20 My concern on this rule is that it's so vague in
21 its standards. And when we go ahead and look at employers
22 when we -- and establishing their own work pattern, it is
23 a concern of mine that musculoskeletal knowledge is not
24 present when they set their JAs, job analysis. To set up
25 a work standard -- or set up a work station, takes

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1 considerable skill. It is a science. Ergonomics is a
2 science. It's been set up as a science, even by NIOSH.
3 And we go ahead and we allow employers to set up their own
4 work standards without some sort of distinct guidelines, I
5 think we injure the workers more than help them.

6 I also think that there ought to be categories
7 of this ergonomics rule. In other words, we ought to go
8 ahead and take the people who are in construction and view
9 it a little differently than those people who are in
10 positions of white-collar workers, as far as
11 transcriptionists and computer operators.

12 I think the rule is good in its intention. I
13 think it needs to be reviewed. I think it needs to be
14 broadened.

15 That's my view. I'm not in support of the rule
16 as it stands right now.

17 MR. SPENCER: Thank you.

18 Is there anyone else who would like to testify
19 at this point on the proposal?

20 THE AUDIENCE: (No response.)

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1 C L O S I N G C O M M E N T S

2 MR. SPENCER: I would like to remind you
3 that the deadline for sending in written comments is 5:00
4 p.m. on February 14th, 2000.

5 I want to thank all of you that came, all of you
6 that stayed, and all of you that testified.

7 This meeting is adjourned at 5:20 p.m.

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C E R T I F I C A T E

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State of Washington)
) ss.
County of King)

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I, LAUREL TERRY, a duly authorized Notary Public
in and for the State of Washington, do hereby certify that
this is a true transcript of the Public Hearing regarding
Ergonomics; that the minutes of said meeting were recorded
in shorthand and later reduced to typewriting; and that
the above and foregoing is a true and correct transcript
of said meeting.

I do further certify that I am not a relative
of, employee of, or counsel for either of said parties or
otherwise interested in the event of said proceedings;

I HAVE HEREUNTO set my hand and affixed by
official seal this 30th day of January, 2000.

14

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NOTARY PUBLIC in and for
the State of Washington,
residing at Renton.
My commission expires
October 6, 2003.
Patrice Starkovich
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